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TOWARDS A CULTURE OF RIGHTS



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AUTHORITIES

Luis Almagro
OAS Secretary General

Néstor Méndez
OAS Assistant Secretary General

Ricardo González Borgne
IIN Directing Council President

Raúl Escalante
IIN Directing Council Vice President

Víctor Giorgi
IIN Director General

Daniel Claverie
IIN Contents Coordinator

Ingrid Quevedo
IIN Technical Assistant of Communication

Sara Cardoso
IIN Design



The IIN is as Specialized Organization of the Organization of American States (OAS) in childhood and adolescence, which assists the States in the development of public policies to be taken for the benefit of children and adolescents, contributing in the field of their design and implementation in the perspective of the promotion, protection and full respect of the rights of children and adolescents in the region. Special assistance is aimed at the needs of the Member States of the Inter-American System and at the particularities of the regional groups.



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PROLOGUE

Victor Giorgi
Director General - IIN

It gives the team and the Director General of IIN-OAS great satisfaction to share with authorities, strategic allies, friends and all who are interested in issues involving children and adolescents a new issue of the IINfancia newsletter.

On this occasion, the publication of the newsletter coincides with the close of the year's celebration of the IIN's 90th anniversary, which was an opportunity to increase the visibility of the institution's actions and reaffirm its validity as an instrument of the Inter-American System to promote and protect the rights of children and youth. The adoption by the Permanent Council of 9 June as Americas Children and Youth Day and the purpose that the resolution itself gives to this celebration, of "including the voice and the views of children and youth regarding the situation in the region", seems to be a sign of possible changes in the ways in which regional organizations relate to children and adolescents.

The articles included in this fifth issue of the newsletter touch upon a number of different subjects related to children's

agendas in the region. The various manifestations of violence, the right to education from the beginning of life, the controversy regarding early child development, its determinism and cultural variations, the right to a family, the challenges posed by the new technologies; a wide thematic diversity cross-cut by a consistent rights-based perspective and contextualization in social, political and cultural time and space.

The inclusion in this issue of a paper by the unforgettable Wanderlino Nogueira Neto deserves a special mention. It was prepared on the basis of his address on the occasion of the 21st Pan American Child Congress held in Brasilia, Brazil, in 2015.

Faced with the recent loss of such a colleague and reference point for the region as Wanderlino, we considered that the best tribute was to recover and offer our readers this article, in which he analysed the links between legal developments and their impact at political and institutional levels. Without a doubt, the topic is very relevant in the current situation in the Americas.

In his paper, the author refers to the fact that the region is experiencing a period of paradigmatic transition, in which an acknowledgement is emerging of the rights of traditionally disadvantaged sectors, such as children, and to the importance of developing a counter legal hegemony on behalf of the interests, needs and wishes of children and adolescents, which can then become fundamental freedoms and rights and can be legally enforced.

The continuity and regularity we have achieved with these five issues of the IINfancia newsletter, together with the richness and variety of its articles, is an expression of the gradual consolidation of this publication as a tool to promote sharing and debate in relation to the progress, difficulties and lessons learned in this long, hard, laborious, but indispensable road

that separates the enshrining of rights in legal instruments and the transformation of the harsh realities of everyday life experienced by children in the Americas.

Paulo Freire said that books should not be read passively, and much less, be repeated, but that we should hold conversations with them, relate them to our practices, discuss issues with their authors through them, question them and allow ourselves to be questioned by them. Thus we may move forward in building knowledge and tools which will enable us to transform reality.

This is the role that we should like this publication to play. To become an area for sharing and discussing ways of harmonizing the text of the Convention on the Rights of the Child and other international treaties that enshrine the human rights of girls and boys with specific proposals and practices, in a regional context where the wealth of cultural diversity coexists with the penuries of violence, discrimination and inequality.

A handwritten signature in black ink, consisting of a stylized, cursive name followed by a horizontal line.



The impact of ICTs on children: new Subjectivities, new challenges for adults

Andrea Urbas

“Subjectivities develop in the daily practices of each culture, and bodies are also shaped in these interactions,”¹ says anthropologist Paula Sibilia, referring to changes in individuals as a result of the increasing use of the electronic devices with which we coexist. The new Information and Communication Technologies (ICTs), which include all of the devices, services and applications that we use with the Internet, have given rise to new forms of interaction between people, which lead to subjective changes, new ways of being, and of being in the world, pervaded by the *digital culture*.

In this paper we shall focus on what kind of an impact this *digital culture* has on children and adolescents. The situation we are faced with after only a quick glance is of children who are using digital devices to play with while taking their first steps, who already own mobile phones in primary school and use social networks which are suitable for people over the age of thirteen. Adolescents and young people for whom the social networks are customary channels of expression, meeting and communication with the rest of the world; they not only interact through them, but also use them as the medium through which they obtain information on social, political and current issues. In this context, in their interactions with others

¹ Sibilia Paula, ¿Redes o paredes? La escuela en tiempos de dispersión, p.8. Tinta Fresca, 2012.

by means of technologies, young people construct their daily lives as well as their identities. They are experiencing a cultural paradigm which is totally different to that of their families and teachers, and the technologies contribute to the composition of this new world of experience.

For the first time in the history of humankind, children and youth have skills and an intuitive handling of tools which are foreign and even threatening to the adults in their environment. Teaching and learning models should form links to a new reality: adults are no longer the sole purveyors of knowledge and information as they used to be, and they often even need to consult those are in the “learning role” on technological issues that they do not understand and on the rationales of their different uses. Role shifts are not only the result of the digital age, but of a way of viewing education that is veering substantially, focusing the production of knowledge on the active participation of children. In this respect, the traditional knowledge transfer paradigm developed with an adult-centric approach, is simply not providing answers to the conditions and dynamics of this new context.

However, we should not just take comfort in the thought that young people know all there is to know about the digital realm. It is a verifiable fact that cross-generational differences in the use of ICTs can also be seen in reverse: for example, **most children do not know how to prioritize the information they find online when doing their homework; nor are they aware, from the outset, of the guidelines for a safe and responsible use of ICTs; not to mention how to protect their personal data, how to differentiate between public, private and intimate categories of information, or understand the invasion of online marketing, which fails to distinguish between children and adults when advertising any type of product for consumption.** This turning point implies challenges, while also entailing a huge potential for the development of interaction processes which will be mutually beneficial for the generations.

The situation is known as the *digital generation gap* and can lead to negative consequences: adults tend to have to cope with a lack of skill when responding to the needs and challenges of children and thus not be able to take advantage of the opportunities offered by this environment. Furthermore, **when parents and teachers equate their lesser technological expertise to a reduced authority, they underestimate their power to convey protection criteria.** When technical command is confused with competence regarding care, children may be prematurely pushed into a “false autonomy” which results in their being unprotected.

Likewise, many parents admit that while they are careful about the content they enable in devices intended for small children, on numerous occasions, they also allow them to play with their own mobile phones or tablets in order to keep them entertained, thus exposing them to adult content. Among some of the more predictable conclusions, it should be mentioned that children naturalize the internet environment, and are not at all aware of its characteristics, or understand the meaning of “being online”.³

This situation demands that **support strategies should be reshaped**, which would enable us to consider new models of authority, of educating and learning, and to redefine certain roles into more decentralized and horizontal relationships. Farrés, Ferreira dos Santos and Veloso⁴ warn that “learning and information are no longer monopolized by the hallowed areas of knowledge (adults, schools, books)”. “Through the Internet, children and young people gain access to and participate actively in the flow of information that circulates through the network, producing or replicating content. However, selecting and processing information so that it becomes knowledge

² Sergio Balardini, in investigation “Impacto de la Tecnología en niñas y niños de América Latina. Nuevos desafíos para la crianza”, Chicos.net Association, 2015. p.49

³ Kelly, Valeria, in “Primera infancia frente a las pantallas: de fenómeno social a asunto de Estado” [Early childhood and screens: from social phenomenon to an affair of State] refers to the Joint Research Centre’s report of 2015.

⁴ Farrés, María Eugenia, Ferreira dos Santos, Silvina, and Veloso, Viviana, “Tiempos virtuales y devenir adolescentes” (unpublished paper). Buenos Aires. 2013.

depends on the individual’s educational capital and not on his or her access to technology.”

This refers to a further gap: the *education gap*, the cultural capital all individuals achieve and which will enable them to make more or less use of the opportunities provided by ICTs, depending on whether conditions are in place for them to exercise their right to a quality education.

From digital immigration to digital wisdom

In 2001, Marc Prensky came up with the popular term “digital natives”, which he used to refer to younger people and the speed with which they were learning to use ICTs. He distinguished them from “digital immigrants”; that is, the previous generations who adopted the technologies later in their lives, who are, on occasion, passive and fearful, and for whom it is far more difficult to incorporate and make use of technological changes.

The difference between these two categories in the digital context is not based on each category’s knowledge regarding the use of technology, but on their attitude, on the level of comfort of digital natives when using the technologies: they have grown up with them and they do not fear them. People who did not grow up with the new technologies, the so-called immigrants, keep one foot in the past, which causes them to do such things as print out their emails, thus demonstrating their discomfort when using ICT: “digital immigrants who are dedicated to education are employing an outdated ‘language’ (that of the pre-digital age) to instruct a generation that controls the ‘language’ perfectly” (Prensky, 2001).⁵

However, Prensky himself evolved in his views: in 2009 he incorporated the concept of “digital wisdom”, considering

⁵ [http://www.marcprensky.com/writing/Prensky-NATIVOS%20E%20INMIGRANTES%20DIGITALES%20\(SEK\).pdf](http://www.marcprensky.com/writing/Prensky-NATIVOS%20E%20INMIGRANTES%20DIGITALES%20(SEK).pdf)

that a “digitally wise person” transcends the immigrant/native generation gap. Today, many digital immigrants display digital wisdom: thanks to technology, we can gain access to information instantly, immediately, about all of recorded history, but the way in which we use these resources, how we filter them, is up to us. In this respect, “technology is and will be a very important aid in shaping our wisdom, so that we can make better decisions and judgements” (Prensky, 2009). Digitally wise individuals will know how to combine their own abilities and skills with the technical potential offered by the new tools, regardless of their age, of when they were born, or of whether they consider themselves digital natives or digital immigrants.

Philosopher Michel Serres in his book *Petite Poucette* [“Thumbelina”] also reflected on these issues and asked: *What should we then teach in this new era of change and mutation? What is the role of teachers, trapped in institutions that emit the light of long-dead constellations?* According to Serres, we are experiencing a “third revolution” driven by the rapid growth of technology, where young people have different forms of behaviour, of inhabiting spaces, of communicating and perceiving the world.

From the educational point of view, this phenomenon is proving difficult to handle: the very sluggishness of the system clashes with the dizziness of the changes, and teachers and parents waver between admiration for the possibilities offered by the technologies and fear of the dangers that can threaten the young. It is a fact that the educational system has not yet found a way to make productive use of these mobile devices in the classroom. In the day-to-day course of the schools’ activities, these devices currently represent a disruptive element rather than making meaningful contributions to learning.

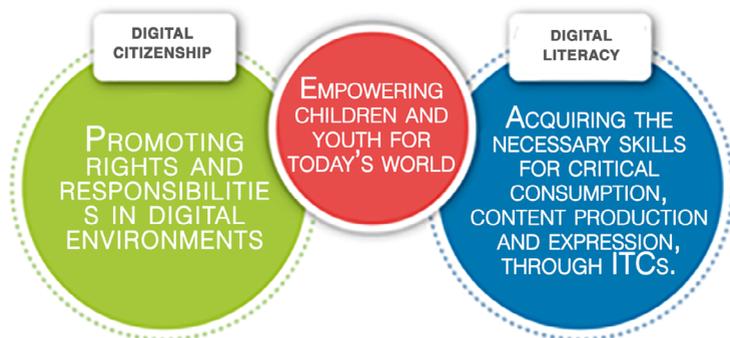
Educating in a digital culture

Sooner or later, the cross-generational gap will close. This need to reshape support strategies is being reviewed in many ways, both at the family and at the educational level.

However, if we follow in the steps of Prensky’s conceptual evolution, **inequalities between ICT users are increasingly determined by usage rather than by extent of access or age.** In this respect, we should continue to work on building the capacity of educators and children’s social reference points, so that they can be guided towards useful and meaningful (in relation to their own lives) technological practices. The fast-paced rhythm of life online, which is becoming increasingly prominent, shows the need for adults to accompany the new paradigms with reflection, guidelines and new skills, so that they can effectively provide the education for digital life that children and youth now require.

The construct which we at *Chicos.net* have come up with as *Digital Culture* is the sum of two pillars: *Digital Citizenship* and *Digital Literacy*. At their point of intersection, the empowerment of children emerges, to use ICT to their benefit, within a world which is increasingly linked to technology, where their rights as citizens must also be brought into play, as well as their responsibilities towards others.

DIGITAL CULTURE



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#Digital Citizenship: The promotion of the rights and responsibilities of all social stakeholders involved in digital environments.

#Digital Literacy: The appropriation of devices and the acquisition of the necessary tools to develop critical thinking, problem solving, content production and expression through ICTs.

#Empowerment: The process through which people's situations are strengthened in order to trigger beneficial changes in situations which their group is experiencing.¹

Therefore, the road to Digital Culture provides a guide for education, so that children and youth can become full digital citizens and can appropriate and make use of technology in responsible, critical and creative ways, can understand and use the new media to express themselves, participate and take an active part in the social, cultural, economic and intellectual life of the society in which they live.



Andrea Urbas

She holds a Licentiate degree in Psychology from the University of Buenos Aires, Argentina, and has specialized in non-profit organizations (Di Tella - San Andrés Universities). She is a founding member of the Chicos.net Association, a non-profit civil organization, which has been active since 1998 with the aim of improving the quality of life of children by promoting the full enjoyment of their rights in cyberspace.

She designs and implements training projects, leads work teams, takes part in publications and research studies and coordinates RedNATIC (network of Latin American organizations for children's right to the safe and responsible use of technologies (www.rednatic.net), and has participated in national and regional events. She is a member of the Children and Youth's Rights Collective and technical advisor for Save the Children's Civil Society Support Programme (CSSP) on the issue of childhood and digital citizenship.

She has taken part in research studies such as the regional report, Niñas, niños y adolescentes y sus vínculos con las Tecnologías de la Información y la Comunicación en países de América Latina ["Children and adolescents and their links to information and communications technologies in Latin American countries"], 2015 (Chicos.net, Rednatic, Save the Children); Impacto de la Tecnología en niñas y niños de América Latina. Nuevos desafíos para la crianza ["The impact of technology on Latin American children. New challenges facing parenting"], (Chicos.net, 2015), and others.

At present, she coordinates the online diploma course on Educating in the Digital Culture, an initiative with Open Classroom and the University of Villa María, Córdoba.

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The right of children under the age of three to receive comprehensive education: When? With whom? Where? How?

Rosa Violante

All children have the right to receive comprehensive education from birth. Adults – educators, teachers, family members – should teach them and convey the social ways of being and existing in the world, the guidelines and traditions pertaining to the various contexts, the different verbal and non-verbal languages, the music, the lullabies, the dances, the traditional child-rearing games. Promoting and ensuring the establishment of emotional ties with their families, other adults and children can enrich the process of forming their identities and sense of belonging, as well as feelings of confidence and security in their own possibilities of achieving, interacting, expressing themselves. Feeling sheltered, protected, surrounded by an embracing and humanizing “psychic cradle” (Schlemenson, S.2002),¹ helps them to gradually achieve autonomy, basic self-confidence and daily well-being. Small children need us to teach them how to be autonomous in everyday life; to eat on their own, to wash, to share, to explore their surroundings, to respect others, to enjoy the company of others, to share emotions, to express what they need and feel, to give and

¹ Schlemenson, S. (2002) Jornada sobre crianza, cantos y cuentos. 26 August 2002, T.G. San Martín Cultural Centre. Buenos Aires Mimeo.

In this paper, the author states, “It is not about specifically stimulating children from an early age, but surrounding them with caresses, songs, words they can hear, moving melodies and lullabies that support them within a psychic cradle riddled with tenderness and songs that no crisis can destroy [...]”

receive affection. It is also key to teach them to play; it promotes and expands the universe of learning opportunities that must be offered during the early years. Sharing child-rearing play (Calmels, D. 2010)², games that explore the properties of objects (Kamii, C. DeVries, 1983)³ (Goldshmiel, E. and Jackson, S., 2000)⁴, “as if” games (Sarle, P., Vasta, L., Soto, C., Violante, R. 2008)⁵; providing daily opportunities to take part in building, dramatic and rule-following play, as well as transmitting the traditional games, are highly formative experiences for children. They are also taught to speak, listen, “read”, play, paint, draw, listen to music, appreciate, dance, play rhythms and sing melodies, build and enjoy stories. What we have said so far is only the beginning of a possible list of “teaching content” in nursery school.

The right to a comprehensive education⁶ from birth, inasmuch as children are citizens, must be guaranteed by the State; it is the State’s responsibility. This implies that since this is the right of children and families, there must be quality institutions that offer safe areas that teach those who attend them.

How can this challenge be met? By offering a diversity of organizational modalities, all of which entail quality institutions, which, while educating, also provide help and care, addressing all of the needs of infants and children, families and communities, according to the requirements of the region.

² Calmels, D. (2010) Juegos de crianza: el juego corporal en los primeros años de vida. 3rd edition. Buenos Aires Biblos.

³ Kamii, C. DeVries (1983) El conocimiento físico en la educación preescolar. Madrid Ed. siglo XXI.

⁴ Goldshmiel, E. and Jackson, S. (2000) La educación infantil de 0 a 3 años. Madrid, Morata.

⁵ Sarle, P., Vasta, L., Soto, C., Violante, R. (2008) Cuando de jugar se trata en el jardín maternal. In Soto, C., Violante, R. (2008) Pedagogía de la Crianza: Un campo teórico en construcción. Ed. Paidós. Buenos Aires

⁶ Bearing in mind that achieving a “progressive cultural literacy”, according to Zabalza (2000), does not only prioritize instrumental literacy (reading, writing, the basic skills), but also the cultural training of individuals, including the world of new technologies, physical, artistic and linguistic education extended to foreign languages and axiological commitments.

Must babies and children receive assistance? Care? Stimuli? Education? Assistance is necessary and will differ according to the needs of the different regions, contexts, groups and communities, but assistance alone is not enough. Care is necessary, but it is not enough; providing teaching and/or education is broader than this, inasmuch as it adds to care and assistance, participation in a process of cultural literacy.

*“Teaching in early childhood is giving knowledge and affection, trust, warmth, tenderness and care; it is rocking from the earliest years with ‘firm but open arms’, which offer safety and the possibility of autonomy; it is alerting to dangers, showing the world and how to move around in it, knowing how to move away when the baby and child show that they can resolve things on their own” (Violante, R. 2001).*⁸

Teaching small children entails deploying a particular way of approaching child-rearing, understood as an education process characteristic of the first years of life.

Who should educate children who are under the age of three?

Within the home environment, family members and neighbours teach in an intuitive manner. In institutions outside the family setting, teachers, educators and other professionals who help children learn, are specifically trained for that purpose, should organize teaching purposefully and systematically. Such institutions should assume the responsibility and commitment of educating, not just providing assistance and care. This is what should take place in educational institutions. In them, teachers and educators (who are specifically trained, given that small children require to be taught in specific ways in order

⁷ For further information, see: Violante, R. (2008) *Adultos en escena: ¿cuidando?, ¿asistiendo?, ¿educando?, ¿enseñando?, ¿estimulando?* Sub-Section in Chap. 2, Los escenarios de crianza en la educación de los niños pequeños. Page 68. In Soto, C., Violante, R. (2008) *Pedagogía de la Crianza. Un campo teórico en construcción*. Paidós. Buenos Aires

⁸ Violante, R. (2001) *Enseñanza en la Educación Inicial 1 y 2 (focusing on nursery school and kindergarten)*. Background paper for curriculum debate. GCBA Dirección de Currículum.

to introduce them to the path of comprehensive education) provide children with enriching life contexts, complementing what they receive in their families and communities.

We need specifically trained teachers and educators who provide tenderness, who take on a maternal and paternal function in the true sense of cradling with tenderness, of showing the world as proposed by Schlemenson (2005),⁹ adults who wish to care lovingly for babies and small children, giving them affection, knowledge, play, warmth and nourishment. Give them their food, their milk, and give them words to “read”, poems, stories, pictures; culture in all of its manifestations.

Where? Which are the most appropriate institutions to provide education, attention and care?

We suggest adopting a term that illustrates the educational nature which we consider to be an indispensable condition of all providers: we refer to “nursery schools”, taken in the broadest possible sense.

Why do we support the idea of “nursery schools”¹⁰? Because by naming them in this way we are referring to the fact that teaching takes place in a *school*, we are suggesting comprehensive education, and because those receiving this education are young children, we add the term *nursery*. There are various and very different institutions attended by young children; crèches, play centres, daycare centres, early childhood care centres, child development centres,

⁹ Schlemenson and others (2005) *El placer de criar, la riqueza de pensar. Una experiencia con madres para el desarrollo infantil temprano*. Buenos Aires, Argentina. Ed. Novedades Educativas.

¹⁰ The term Nursery Schools was proposed in Argentina in the eighties, to refer to institutions which are part of the formal education system, and composed of six sections: for babies, one-year-old children or toddlers, and 2, 3, 4 and 5-year-old children. What is interesting is the rationale behind this proposed term: H. Duprat states that “*The term Nursery Schools arises from this new willingness to adapt early education organizations to current needs and to the evolution of knowledge. ‘Schools’ implies the purpose of recovering and highlighting the role of the schools, while also explicitly defining the educational nature of these institutions. ‘Nursery’, because they certainly have very specific characteristics, owing to the age of the children who constitute their population*” (San Martín de Duprat, H. 1995:38), quote from Bosch, L. San Martín de Duprat, H. (1995), *El nivel inicial. Estructuración. Orientaciones para la práctica*.

play groups, community canteens with extended schedules, among many other types and formats, or alternative models. All of these areas answer to different authorities. While each of these institutions has its own particular features in relation to the schedules offered, plans, space, adults in charge and purpose, we believe, however, that they should all provide education, and, therefore, they could be transformed into or consider ways of “being” and “becoming” nursery schools.

In addition to answering to the private sphere, many answer to Social Action and very few to Education.

In every case, if the aim is for children to receive education, the schools should have support and pedagogical supervision from the educational authorities. This does not prevent these centres (on the contrary, it is an interesting fact) from also answering to other bodies, other agencies such as Social Welfare, Health, Justice, depending on the nature and foundation contract of the various institutions, and their aims.

Intersectorality is necessary in order to address so many different and difficult situations involving our children today, but this is not sufficient if the education sector does not take on a central role, or is absent.

Educating implies attending, caring for in the broadest possible sense of the word; it implies supporting babies and very young children as they build their identities and learn how to live with others, while also helping them to gain access to, to appropriate the cultural universe. This is why we say that educating implies promoting processes of cultural literacy and personal and social development. Both of these are the focal points that constitute comprehensive education. When we speak of cultural literacy, we do not refer exclusively to learning how to read and write, we refer to teaching how to “read” and understand the world.

Reading is building meaning. We do not only “read” what is encrypted in letters. We “read” a picture, the city we travel through, the face we scrutinize... We seek signs, clues, and build meaning, assemble a small cosmos of significance (...) Long before they have command of language, babies “read” the world that surrounds them (...) (Graciela Montes, 2007:2)¹¹

In our view, “Nursery School in the broadest sense”¹² makes it possible to achieve genuine inclusion in two ways. The first way to achieve inclusion is to offer a variety of institutional formats, with broad and flexible timetables, with plans that meet the different needs of each community, group or region. In this respect, we should include organizational formats that are different to those within the scope of formal education, which is why we consider that T. Sirvent’s notion (2006)¹³ of considering institutions with varying levels of formality, although all of them educational, could be the “key”. If the formats differ in their schedules, timing and pedagogical organization, we shall enable all children to attend, since the school will respond to the needs of families and young children.

In relation to the second way of achieving inclusion: we think that it is not enough for young children to attend and be present at the institution; wonderful things should happen there; that is where the opportunities are, the “great occasion”, they must be able to gain access to the cultural alphabet and share their own, which they bring from their communities of origin; they should receive a comprehensive education. From

¹¹ Montes, G. (2007) La gran ocasión. La escuela como sociedad de lectura. Ministry of Education Buenos Aires Available from: <http://www.bnm.me.gov.ar/giga1/documentos/EL002208.pdf>

¹² For further arguments in support of this, please see chapter 2: Escuelas Infantiles en “sentido amplio” en la Educación Inicial. (E.I. en la E.I.) in Bialostoki, P. and others (2016) Debates y Claves de la Educación Maternal hoy. Available from: <http://rien0a3.blogspot.com.ar/2017/03/libro-debates-y-claves-de-la-educacion.html>

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¹³ Sirvent, M. T.; Toubes, A.; Santos, H.; Llosa, S.; Lomagno C. “Revisión del concepto de Educación No Formal” Cuadernos de Cátedra de Educación No Formal - OPFYL; Facultad de Filosofía y Letras UBA, Buenos Aires, 2006. Available from: <http://www.unesco.org.uy/ci/fileadmin/educacion/Revisi%C3%B3n%20del%20Concepto%20de%20EduNoFormal%20-%20JFIT.pdf>

the pedagogical-didactic dimension, inclusion is achieved because it is facilitated to all children; access to cultural goods is promoted and shared by all of the communities. Comprehensive Education is provided. Summarizing these arguments:

“From a political perspective, Nursery Schools are recognized as institutions that produce social justice, inasmuch as they regard all children as having equal rights. The proposal of considering these institutions in terms of different levels of formalization helps achieve educational inclusion, inasmuch as they make it possible to gain access to flexible alternative spaces, presented in multiple formats, but without renouncing the strong pedagogical purpose which they should display as their principal feature. These pedagogical features conceive the building of scenarios, shared with families and communities, which will broaden their life experiences and enable them to share and gain access to different world views and cultural patterns, participating in the process of cultural literacy which will broaden their cultural universes in mutual enrichment.

*(...) From a pedagogical and didactic perspective, Nursery Schools should provide quality proposals in order to teach and promote learning in children. **Nursery Schools conceived in a broad sense typically offer the community an “open” educational services, with a high level of educational purpose** (according to T. Sirvent, with a high level of pedagogical formalization), which does not involve traditional institutional models in the way they organize space, time and groups; on the contrary, they are characterized by providing education in different alternative ways, which demonstrate different ways of approaching the teaching of socially recognized content to all young children” (Violante, R 2016)¹⁴.*

¹⁴ Violante, R. (2016) Escuelas Infantiles en la Educación Inicial. In Bialostocki, P. Macias, M., Marotta, E., Moreno, P. Rebagliatti, S., Sena, C., Violante, R. (2016) Debates y Claves en

Quality and inclusion should be the challenges to be met through the installation of Nursery Schools conceived “in a broad sense”.

In every place, time and space attended by a young child, there is a right which should be addressed with the best quality educational proposal.

How? Some specific ways of teaching young children.¹⁵

There are specific ways of teaching that cater to the special features of young children. These include: Teaching by sharing mutual expressions of affection, offering emotional availability, building scenarios, carrying out joint actions, giving support with words. Teaching by providing opportunities for repetition in order to assimilate what is new. Teaching by posing problematic situations that present the challenge of building new knowledge. Teaching by observing very carefully; looking at the children and showing them that we are with them, supporting them in their explorations, offering emotional security, confidence in their abilities and willingness to address whatever they need.

The “key” devices when organizing the teaching of young children involve very specific decision-making in relation to space, time, grouping and multitasking.

In closing and as a beginning, let us go back to the top; to the right to receive Comprehensive Education: When? With whom? Where? How?

When?

From the moment we are born and always¹⁶

la Educación Maternal.

¹⁵ Further information: Violante, R. (2006) Cómo enseñar a los niños pequeños. Educricianza. Infanciaenred.

¹⁶ To borrow the name of the Colombian programme *De 0 a siempre* [“From 0 to Always”] Comprehensive Care for Early Childhood.

With whom?

Within the home environment with adults, neighbours, family members. In institutions, with varying degrees of formality, educators, teachers, specialists in different areas who contribute intersectorally to achieving educational proposals for children and families.

Where?

In different institutions or alternative modalities, all of which constitute forms of “being” and “doing” Nursery School in the broadest sense.

How?

By offering high-quality proposals, which respond to the pedagogical principles of the didactics of nursery education.

Our shared challenge is to build possible alternatives, solutions that are respectful of children. We suggest building an approach that looks to the future, with an eye on what is to come, on the “hope” of imagining what might be possible if we all put our hands together in order to achieve a common purpose, offer quality comprehensive education to all children under the age of three. We must continue to demand the rights of those who have no voice.

*“One hand
plus one hand
is not two hands
they are joined hands.
Join your hand
to our hands
so that the world
is not in a few hands,
but
in all hands.”*

Revolution, by Gonzalo Arango.¹⁷

¹⁷ Gonzalo Arango was a Colombian writer who was born in the municipality of Andes in 1931 and who died in the city of Tunja in 1976.



Rosa Violante

She is an Early Education teacher (ENS N° 10), professor of Psychology and Educational Sciences (INSP), and a specialist with a master's degree in Didactics (UBA).

At present, she serves as pedagogical consultant and trainer at a number of early education and teacher training institutions for early childhood education in the country and abroad. She holds the chair for the Didactics of Nursery Education at UNSAM (National University of San Martín) and is a member of the Network of Researchers in Education for children aged between 45 days and 3 years. (R.I.E.N.)

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Forced motherhood

Andrea Tuana

This article focuses on the problems of forced pregnancy and forced maternity among children and adolescents. Its aim is to shed light on the major infringement of rights involving motherhood at this stage of life, which is even worse when forced child pregnancy and forced child maternity are the result of sexual violence.

A child is always a child, in any context, in any place and in any circumstances. A child should be able to live out her life in safety and affection, to experience, learn, grow, make mistakes, have fun, fall in love, love, desire, study, have friends, get bored, dream. Maternity at this stage of life constitutes an infringement of the human rights of girls and teenagers, as individuals who are growing, developing and in the process of maturing.

The Pan American Health Organization (2018) has stated that maternity at this stage not only hinders girls' psychosocial development, but is also related to poor health outcomes and a greater risk of maternal death. Pregnancy and childbirth complications are the leading causes of death in adolescents between 15 and 19 years old. The risk of maternal death is lower in mothers at around 20 years of age and highest in mothers who give birth before the age of 15.

The report on *Accelerating progress toward the reduction of adolescent pregnancy in Latin American and the Caribbean* (2018) states that adolescent pregnancy has profound effects on girls' life trajectories. It hampers their psychosocial development, contributes to poor health outcomes for the girls and their offspring, negatively affects their educational and employment opportunities, and contributes to the perpetuation of intergenerational cycles of poor health and poverty. In addition, it states that child or adolescent pregnancy is the expression of a context of extreme inequality, since, globally, adolescent pregnancy rates are higher among girls with no primary education compared with those who have received a secondary and higher education. Girls whose households are part of the lowest wealth quintile also have a higher chance of becoming mothers compared with those in the highest quintile in the same country.

According to the World Health Organization (WHO), every year, two million girls under the age of 15 give birth, and Latin America and the Caribbean is the only region where deliveries among girls under 15 have increased, and are expected to continue to increase at least up to 2030.

In its report on *Child Mothers*, the Latin American and Caribbean Committee for the Defence of Women's Rights indicates that forced child pregnancy occurs when a girl under the age of 14 gets pregnant without having sought or wanted the pregnancy, and the interruption of her pregnancy is denied to her, made difficult, delayed or hindered. It also states that the majority of cases of child pregnancies occurs as a result of sexual violence carried out by family members (incestuous sexual abuse), acquaintances, neighbours, or strangers. This is unlike the case of adolescents between 15 and 19, a span in which a significant incidence of pregnancies is recorded due to sexual initiation at an early age. It also suggests that forced child pregnancy is deemed to be a form of torture.

Forcing a child who has not finished growing to carry a pregnancy to term, become a mother and raise a baby should be considered torture, or cruel, inhuman or degrading treatment, as appropriate, according to the terms of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Covenant on Civil and Political Rights. (CLADEM, 2016)

Forced pregnancy and maternity as a result of sexual violence

Our girls and teenagers are subjected to multiple forms of violence, especially gender-based violence, which compromise the quality of their lives and condemn them to survival in unacceptable conditions for any child or adolescent. Such is the case of forced motherhood, the result of abusive relationships, forced marriages, sexual exploitation, incest or intrafamily sexual abuse.

The Pan American Health Organization (PAHO) has estimated that between 11% and 20% of child and teen pregnancies are the result of sexual violence. Similarly, the United Nations Population Fund (2013) indicates that pregnancy in adolescents and girls under the age of 14 is also closely related to sexual violence. These pregnancies are mostly unwanted and mainly affect vulnerable and unprotected groups. In addition, the younger the child or teenager who is initiating her sexual life, the more likely it is that she is being forced.

Sexual violence against girls and adolescents is a manifestation of adult-centred and patriarchal power, which occurs in the context of coercion, submission and power asymmetries of various kinds and in a social and cultural structure which sustains and reproduces them.

The Hemispheric Report on Sexual Violence and Child Pregnancy in the States Party to the Belém do Pará Convention (2016)

maintains that sexual violence against girls and women is one of the clearest manifestations of the social mandates and traditions of a patriarchal culture that encourages men to believe that they have the right to control the body and sexuality of women. The seriousness of this situation is further aggravated when the victims are children and when they become pregnant as a result of sexual violence.

Sexual abuse causes serious damage and impacts in the lives of children and adolescents. It involves traumatic experiences which intensely affect their development and their chances of becoming holders of rights, and infringe upon their self-perception, self-esteem and self-confidence, legitimizing relations based on domination.

In its *Declaration on Violence against Women, Girls and Adolescents and their Sexual and Reproductive Rights* (2014), the MESECVI Committee of Experts states that sexual violence has extremely harmful consequences, both for women, girls, and adolescents and for the whole of society. It affects girls' physical and reproductive health, increases the risk of maternal and infant mortality, and causes high-risk pregnancies and pregnancy-related issues, including unsafe abortions, premature births, foetal distress, and others. Amongst the psychological impacts, the declaration highlights the lack of willpower, fear, angst, depression, post-traumatic stress, anxiety, and a higher risk of suicide.

Girls and teenagers may be subjected to various forms of sexual violence, such as sexual abuse within the family or by people they know, the subjection to forced marriages or abusive relationships, sexual harassment at school or at work, rape by strangers, or commercial sexual exploitation. Early experience of incest or ongoing sexual abuse gives rise to impairment that determines the highly vulnerable conditions that lead to girls and adolescents suffering other forms of sexual violence. One of the greatest risks is the naturalization of abusive rela-

tions, of becoming victims of the emotional manipulation of the adults who seduce them and establish relationships which girls and teens feel that they have chosen. Girls and adolescents caught up in these relationships say that it is their wish to be with men who are often double their age and to continue a pregnancy which, while they did not plan or want it, once it occurs, they accept as a positive experience which they wish to continue.

Forced pregnancy and forced motherhood frequently take place in such contexts of sexual violence, in which consent cannot exist, since it has been manipulated by the abusive context.

Pregnancy and motherhood as a result of sexual violence are harmful and constitute an extreme infringement of the human rights of girls and adolescents. It is not acceptable to think that maternity will improve or minimize the impact of sexual violence; on the contrary, it aggravates it to the extent that it often leads to serious consequences for the mental health of girls and adolescents. Nor is it acceptable to force girls or teenagers to continue a pregnancy, since forcing them to give birth in such conditions is a form of torture.

Forced marriages and abusive relationships

Couples formed by an adult and a child or teenager, with an asymmetrical and flagrant abuse of power, are common. In this category we can include forced marriages, relationships between an adult and a teenager with more than ten years' difference in ages, intrafamily sexual abuse that evolves into relationships, sexual exploiters that enter into relationships with the girls or teenagers whom they exploit.

UNICEF defines child marriage as a formal marriage or informal union before the age of 18 and considers it to be a human

rights violation which leads to negative consequences in the lives of children, as well as to separating them from their families and friends, to a lack of freedom to interact with people of the same age and participate in community activities, and to reduced opportunities to receive an education. It is defined as early and/or forced marriage, since there is no real consent on the part of the minor. In many cases children are forced or are too young to make a genuine, informed decision regarding the implications of this action.

Child marriage can also lead to forced labour, slavery, prostitution and violence against the victims. Since they are unable to avoid sexual relations or insist on condom use, underage brides are exposed to serious risks to their health, such as early pregnancies, sexually transmitted diseases and, increasingly, HIV/AIDS. Parents sometimes acquiesce in these marriages out of economic need. In these cases, marriage is viewed as a way to provide their daughters with a male guardian, protect them against sexual aggression, avoid unmarried pregnancy, extend their years of fertility and/or ensure their obedience in the home of the husband (UNICEF, 2016).

In relationships between an adult and an underage person where there is more than ten years' difference in ages, it is not possible to guarantee a bond based on free choice and genuine consent. The existence of multiple asymmetries related to age, maturity, development, life experience, physical and economic autonomy makes it impossible to ensure that the choice has been free and consented.

In addition, Finkelhor (2008) suggests that when determining that a relationship is abusive, we need to take coercion into account. This involves the use of different strategies to achieve abusive contact, such as manipulation, pressure, authority or deception. It is recommended that an age difference of five years be considered when the child is under the age of thirteen and ten years if the child is between thirteen and sixteen years of age.

A situation which often comes up is that of adults acting as “rescuers” of teenagers who live and grow up in contexts of inequality. These adults are often viewed by the families as a means of removing their daughters from conditions of severe deprivation and provide their endorsement for these bonds to endure. In other cases, the teenagers have been subjected to violence in the home, early experiences of sexual victimization, expulsion from educational institutions and multiple forms of deprivation.

These adults present themselves as someone who can listen to them, provide affection, containment and in some cases, a place to stay, to eat and to escape from their experiences of loneliness, harm and exclusion. They quickly establish sexual or emotional bonds and involve the girls or teenagers in a fantasy of love and a better life. The continued violence, abuse and deprivation that many children and adolescents suffer during their development and the lack of answers and protection from the system give rise to feelings of helplessness and distrust. Children and adolescents feel that they are alone and that they must face up to reality as best they can. These “rescuers” take advantage of the situation of inequality that children and teenagers are experiencing and of their traumatic life circumstances, and deploy their dynamics of seduction, infatuation and entrapment (Tuana, 2017).

Coercive and manipulative strategies are diverse. In some, they foster in teenagers the desire to cohabit, form a family and have children with their sexual abusers; most of them profess themselves to be in love and having chosen to be in the relationship. Other couples emerge from continued sexual abuse during the adolescent's childhood. There are cases in which stepfathers initiate sexual abuse during their stepdaughters' childhood and later transform the bond into a relationship and subsequent cohabitation.

The CEDAW Committee and the Committee on the Rights of the Child have classified forced pregnancy and child marriages

as harmful practices that seriously affect the rights of girls. In their joint general recommendation/general comment,¹ these treaty bodies note that harmful practices are deeply rooted in social attitudes according to which women and girls are regarded as inferior to men and boys based on stereotyped roles.

Forced pregnancy and therapeutic abortion

In sexual violence contexts (incest, intrafamily sexual abuse, sexual exploitation, forced marriage, abusive relationships and any other form of sexual subjection) pregnancies should be considered forced, and, therefore, consent does not exist.

A forced pregnancy must be treated as a medical emergency that threatens the life and physical and mental health of girls and adolescents, and termination of the pregnancy should be indicated in every case. To this end, it is essential for professional practitioners in different areas, especially in the health sector, to have access to the tools with which to address these situations, so that their actions can establish the appropriate conditions for immediate termination.

While it is desirable for the termination of the pregnancy to be agreed with the child/adolescent, lack of consent on her part cannot be a barrier to performing this medical procedure, in the understanding that a forced pregnancy severely affects the mental health of girls and adolescents, placing their future development at risk.

In this respect, regulations and protocols should be devised in order to break down the barriers that hinder the provision of care for forced pregnancies as a medical emergency and a health risk for girls and adolescents.

¹ Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices.

In relation to this, the *Hemispheric Report on Sexual Violence and Child Pregnancy in the States Party to the Belém do Pará Convention* (2016) states that many child pregnancies, besides being a product of sexual violence, bring an implicit double victimization related to the lack of existing protocols for health care for girls who are victims of sexual violence, and obstacles linked to laws that establish absolute prohibitions on abortion, even in cases of sexual violence.

In order to address forced pregnancies and the prevention of forced motherhood, all legal, procedural, institutional, bureaucratic, cultural and other barriers that condemn girls and adolescents to an intolerable situation of suffering and the violation of their rights should be removed.

A key sector in this approach is the health sector, where there is an urgent need to eradicate health care practices that pressure, coerce and manipulate children and adolescents into continuing a force pregnancy. Practices such as submitting a child to, or asking her if she wishes to see the ultrasound and hear the heartbeat of the foetus should be banned. In addition, there should be strict regulations to prohibit admitting pregnant girls and teenagers into maternity wards and to ensure that they are always admitted into paediatric wards. Health care personnel should approach forced pregnancy as a high risk issue for the patient's physical and mental health and act accordingly. In addition, health care personnel should be banned from asking girls or teenagers whether they wish to continue their forced pregnancy and/or encourage them to do so. All of these practices constitute forms of torture towards girls and adolescents who are victims of a forced pregnancy.

Girls and adolescents must be cared for respectfully, taking into account their wishes, fears and anxieties, respecting their right to be heard and to express their feelings and opinions, but the determination of the termination of a forced preg-

nancy is one which is based on the best interests of children and adolescents. A forced pregnancy is a form of torture and a pregnancy resulting from abusive relationships is a forced pregnancy, and, therefore, should be terminated.

Andrea Tuana

Master's degree in Equality Public Policies – FLACSO Uruguay, 2016. Diploma in "Gender, Development and Planning" from the University of Chile, 1998. Licentiate degree in Social Work from the University of the Republic of Uruguay, 1994.

She is an expert in domestic violence and sexual violence against women, children and adolescents, with wide experience in direct care, teaching, capacity-building and political advocacy.

Director of the El Paso Civil Association; an NGO focusing on domestic and sexual violence. Academic coordinator and teacher in a continuing education course on: Gender violence; violence against women, children and adolescents, Faculty of Social Sciences, UDELAR, 2016 and 2017.

She advises the Gender in Health Department of the National Police Health Directorate of the Ministry of the Interior. She is a member of the Multidisciplinary Committee for sex change registration at the Ministry of Education and Culture. She is part of the synchronization between the Judicial Branch, the Ministry of the Interior, the Prosecutor General's Office and civil society to address violence against women.

She engages in consultancy for a number of national and international bodies (IOM, IIN, ANEP, INMUJERES, MERCOSUR) on issues related to policies for children, gender, domestic violence, commercial sexual exploitation and trafficking in persons. She has produced a "Regional diagnosis on trafficking in women with the purpose of sexual exploitation in Mercosur", a "Regional guide on caring for women who are victims of trafficking with the purpose of sexual exploitation" and a draft regional protocol for the "Care of women who are victims of trafficking in MERCOSUR".

These works were produced as part of a consultancy for RMAAM- MERCOSUR (2010-2012).



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91th ANNIVERSARY

The Inter-American Children Institute (IIN) celebrated its 91th Anniversary, in a commemorative day at the headquarters of the Dr. Luis Morquio Specialized Library in Montevideo.

The ceremony was propitious for the meeting of the diplomatic corps from the Inter-American System accredited in Uruguay, national authorities; representatives of international organizations and civil society, who share the commitment to work for the rights of children and adolescents.

The Secretary General of the OAS, Luis Almagro, opened the event that a video in which he reaffirmed the General Secretariat's support for the work of the IIN and its technical team and expressed "Democracies require a specialized Institute that help the transformation of the facts that violate the rights of children and adolescents in the Americas."



Special Representative on Violence against children, Marta Santos Pais, sent her congratulatory message to the IIN and said that since taking office at the United Nations the Institute has been a special ally in the consolidation of the protection of children against all the forms of violence in the field of implementation of the Convention on the Rights of the Child.



The Director General of the Institute, Víctor Giorgi, emphasized in his speech that the Action Plan for 2015-2019 emphasizes the need to overcome the tendency to talk about children without listening to them, however, the OAS's resolution designating 9 June as Americas Children and Youth Day is an advance that opens up the possibility of listening to the children of the region in the Permanent Council.



Pilar and Matias, members of the Consultative Advisory Board of INAU.



Right to Left. Consul of Suriname, Nelson Simatovich Coordinator of the Legal Area of the IIN, Esteban de la Torre, Ambassador of Ecuador, Galo Galarza Dávila, Ambassador of Guatemala, Antonio Fernando Arenales, Ambassador of Costa Rica, Arnaldo Herrera Vargas and Ambassador of Peru, Augusto Arzubigi.



Right to Left. Director of Social Development of the Municipality of Montevideo, Fabiana Goyeneche, Director of INAU, Marisa Lindner, Director of the National Office of the OAS Uruguay, Ricardo Domínguez, Director of Human Rights of the Ministry of Foreign Affairs of Uruguay, Daniela Pi, and the Representative of the Committee on the Rights of the Child, Luis Pedemera.



Critical considerations on neuroscientific evidence in studies on child poverty

Sebastián J. Lipina

Contemporary evidence available in neuroscientific studies on child poverty should be regarded as complementing the evidence generated by the disciplines that make up the field of development science,¹ since at least the beginning of the 20th century. In this respect, we should consider that since the advent of modern neuroimaging technologies, behaviour genetics and epigenetics, 70% of neuroscientific evidence on child poverty derives from some eighty empirical studies published between 2003 and 2018. At the same time, 80% of these studies were published between 2012 and 2018. In addition, with regard to this body of work we should bear in mind that: (a) 77% are studies with synchronous designs; that is, they do not contemplate the set of factors of change involved during development; (b) 51% applied structural magnetic resonance techniques, whose relationship with functional aspects depends on the analysis of non-causal association; (c)

¹ The roots of contemporary development science have fed from academic fields such as biology, philosophy, medicine, psychology, education, history, economics and sociology. Contemporary theory in this science is framed within relational system models which underscore the fact that changes in people's different biological and psychological systems that occur during their life cycles, take place through regulatory interrelationships between individuals and their development contexts, which include the historical, social and cultural systems in which their existence evolves. That is, the aim of this interdisciplinary field is to describe, explain and optimize intra- and inter-individual changes and differences in the process of adaptive regulation to diverse development contexts during the cycle of life.

82% of the studies were conducted in the United States, 6% in the United Kingdom and 3% in Canada; and (d) regarding the longitudinal studies, only two were published on interventions with populations of children living in poverty in which neuroimaging techniques were used (Lipina, 2017).

Such evidence makes it possible to maintain that different forms of material, affective and symbolic deprivation – primarily related to definitions of poverty based on income, occupation and parents' education – can be linked to: (a) poor performance in tasks that demand cognitive and emotional control; (b) chronic responses of the systems that regulate coping with stressors; (c) alterations of autonomic and immune physiological systems; (d) changes in the thickness, surface, connectivity and activation of the various neural networks that are often associated with such performance and functioning; and (e) changes in neural and cognitive performance after the implementation of interventions in preschool and school-age children. These linkages have been observed as from the first year of life, and at least until adulthood (Farah, 2017). With regard to the scope of such influences in the long term, links have also been observed between early adverse conditions due to poverty, and health in adult life, so poverty has been associated with a higher burden of disease over time and a higher rate of early death in relation to life expectancy in different societies (Stringhini et al, 2017).

Overall, this evidence makes it possible to generate and maintain the hypothesis that cognitive and emotional processes involved in self-regulation² are sensitive to the effects of poverty from the earliest stages of development, with potential consequences for a large part of the life cycle. However, it must be noted that such interpretations should take a number of different considerations into account. On the one hand, studies are mostly based on designs that take into account population groups at a specific stage of development,

² A psychological concept which refers to the capacity of adjusting thoughts, emotions and actions according to the demands of different contexts.

and that most of them are in Anglo-Saxon cultures. This involves the risk of not identifying two potential biases: (a) the possibility of considering the influence of poverty on the development of the brain as fixed and immutable and to extend it to all stages of development; and (b) to consider that what is observed in one cultural context can be valid globally; that is, in any other culture (D'Angiulli et al. 2012). Furthermore, it should also be considered that 50% of the studies published have used neuroimaging methods that only account for anatomical information (e.g., thickness, volume), on the basis of which it is not possible to make causal inferences with regard to functional implications. Both types of bias can be observed both in academic work and in the reports of multilateral organizations and articles in the specialized and general social communications media³ (Lipina, 2016a). We shall return to other aspects related to this issue below.

In relation to the degree of change affecting these associations throughout the life cycle, the literature available in development science indicates that it is variable, since it depends on different factors occurring on different time scales: the accumulation and/or co-occurrence of adversities and deprivation; the development moment at which they occur; their persistence over time; and each individual's susceptibility to these impacts. Much of the evidence that refers to these factors that modulate the influences of poverty on human development was generated in the context of different scientific fields connected to social science and health – not only neuroscience over the last two decades. Also in the context of such disciplines, evidence has been accumulating for decades that indicates that the associations between poverty and self-regulatory development may be

³ See, for example: (a) the contrast between two articles by scientific journalists in *Nature* (<https://www.nature.com/news/poverty-shrinks-brains-from-birth-1.17227>) and *Science* (<http://www.sciencemag.org/news/2015/03/poverty-may-affect-growth-children-s-brains>), referring to the publication of the paper by Noble and others (2015); (b) the paper published by UNICEF-Uruguay “Lo que viven en sus primeros mil días es la base del resto de su vida” (https://www.unicef.org/uruguay/spanish/pdf_digital_final-interactivo.pdf); or (c) the priorities presented on UNICEF China's website (<http://www.unicef.cn/en/child-protection/child-poverty-alleviation/>)

modified, at least partially, by the effect of interventions that aim to optimize human development (Lipina, 2016b). In all three cases; that is, in the study on the impact of poverty, the identification of the factors that modulate it and the potential changes in the trajectories of development through interventions, contemporary neuroscientific evidence in poverty-related studies is preliminary and complements the work of other disciplines. That is to say that the issue of the impact of poverty on child development and its short, mid and long-term consequences should not be addressed taking into account only a discrete group of variables, factors and phenomena proposed from a single scientific perspective. This should be taken into consideration when attempting to apply scientific knowledge to the design of interventions and policies, since a reduced vision of a problem will only increase the chances of generating reduced actions that fail to contemplate essential aspects that contribute to these phenomena. Many of the problems that are now observed in the implementation of policies in contexts of child poverty involve this type of difficulties (see for example, Black et al., 2017, for an analysis of the problem of implementing large-scale interventions).

While a general consensus exists in the contemporary academic world devoted to child development regarding the aspects we have mentioned above, it is also possible to partially identify a set of representations among academics, multilateral organization technical experts and social communicators that seems to support the notion that the impact of early material, affective and symbolic deprivations is absolutely unchangeable throughout the life cycle – a kind of early determination of human development (Bruer, 2000). This set of representations can be identified in social communications in different societies throughout the world, regardless of the publishing profile of each medium.⁴ It is also sustained, in part, by social

⁴ In addition to item (a) in the previous footnote, see, for example: (a) the article in the English newspaper *The Guardian* on malnutrition amongst Afghan children (<https://www.theguardian.com/world/2014/jan/26/afghan-children-harm-malnutrition-growth-development>); and (b) the Smithsonian's press release on child poverty (<https://www.smithsonianmag.com/science-nature/how-growing-up-in-poverty-may-affect-a-childs-developing-brain-180947832/>)

stakeholders within academic fields and various multilateral organizations, supposedly on the basis of evidence provided by contemporary neuroscience (e.g., Black and others, 2017). This set of representations should be called into question when it is portrayed as absolute knowledge based on empirical evidence generated by neuroscience, since it fails to take into account certain notions about human development in general and neural development in particular, which the various disciplines that make up the science of development are currently proposing. Development is a complex process, which involves events and dynamics that occur at different levels of organization (molecular, neural, cognitive, psychological, social and cultural), so that the trajectories of each individual are highly variable. This critical commentary on the use of neuroscientific evidence to justify the existence of a critical or sensitive period in the earliest years of life as a determinant of productive life in adulthood does not imply calling into question the importance of the early stages of human development for future well-being trajectories. Nor does it imply questioning the existence and importance of critical and sensitive periods of neural development in the emergence, organization and development of different neural systems, from conception onwards; or the importance of the availability of nutrients and appropriate care systems during such periods. The evidence available in the science of development – which includes the evidence of contemporary neuroscience in poverty studies – indicates that it should be possible to modify self-regulatory development trajectories in children who have been exposed to poverty, through various types of interventions and far beyond the first few years of life, which can also vary from one culture to another (Nilsen, 2017). That is, we cannot yet make clear and concrete statements about the possible immutability of the impacts of poverty in different areas of development and at different levels of analysis. Nor can we pinpoint clearly and specifically – with the exception of some nutrients, such as iron – at what moment of human neural development, can which types of nutritional deficit be linked

to which kind of immutable phenomenon (Georgieff et al., 2015). A significant aspect which the set of representations we are calling into question implies is that even when children have suffered material, affective and symbolic deprivation, this does not mean that they have no opportunities for development that will eventually allow them to lead decent lives, or be productive members of our communities. The evidence available in the science of development does not allow us to make any claim to the contrary. And should this occur, we must then challenge our representations and social responsibilities regarding the implications of failing to modify material, affective and symbolic deficiencies during childhood and adolescence, in particular in the case of those who suffer multiple adversities. Therefore, it is also necessary to question all notions of meritocracy in a social matrix at the base of which is inequality.

A further debate that neuroscientific studies on poverty tend to generate is about their potential contribution to a perspective reducing the phenomena involved to biological and economic terms, on the basis of an alleged biopolitical intention of social control, at the service of the neo-liberal ideologies which are currently dominant. Briefly, the critical argument consists in sustaining that neuroscience attempts to reduce individuals to neuronal processes and that children's opportunities for development and their consequent human capital would depend on what takes place during the earliest years of life (Millei and Joronen, 2016; Rose and Rose, 2017). In this regard, we should insist that contemporary science of development literature, in which we include cognitive neuroscience, is based on a systemic and epistemological human development proposal, which includes multiple interconnected levels of organization which contribute complex dynamics and trajectories and which make it impossible to reduce complex phenomena to only one of such levels or dynamics (Lipina, 2016b). Obviously, this does not imply that there are no neuroscientists whose conclusions and narratives depart from

this consensus and who contribute to reducing explanations of complex phenomena such as poverty to only a subset of variables corresponding to the level of neural organization. In the face of such cases, the warning issued by the biopolitical perspective regarding the reductionist use of neuroscientific knowledge, and for the purpose of social control, is justifiable. This perspective (when not denying or detracting from the neural organization level, which is not always the case) is a valuable critical tool, inasmuch as it challenges the way we consider the social contexts of our study designs and how we interpret our results in terms of this (see, for example, Nilsen, 2017). For example, the availability of adaptive self-regulatory strategies for study and work contexts is important in different societies, in our region and others. However, proposals for intervention or training in such skills necessarily imply a political intent which responds to specific historical, economic and social contexts. In this regard, the supposed neutrality of the designs and outcomes of scientific research must be called into question. In other words, the use of the neuroscience as an agent of authority to legitimize intervention proposals of any kind for all kinds of cultural systems, is also part of a process that involves different political actions that respond to specific interests. To the extent that interdisciplinary and intersectoral efforts can advance in the awareness of these aspects, debating them appropriately, we shall have better opportunities for building interdisciplinary knowledge that has a chance to contribute novel ideas to the design of appropriate policies for early childhood, based on the perspectives of equity and social justice.

Such interdisciplinary encounters, far from constituting bodies that only foster hindrances, are productive and necessary in order to: (a) visualize any prejudices and dogmas when considering levels of neural organization in poverty studies conducted by the social disciplines; (b) identify the structural aspects of poverty that tend not to be considered in neuroscience literature; (c) identify the methodological

and logistical limits imposed by neuroscientific research in poverty studies; and (d) arrive at a consensus on the value and limitations of the evidence available, as well as on the need of future interdisciplinary efforts. In addition, research groups that currently devote efforts to building knowledge on how poverty-related adversity influences the nervous system argue that neuroscience has no intention of reshaping cultural differences in neural terms; or, in other words, they are not suggesting a biological definition of poverty. Researchers in this field – which does not include the entire community of neuroscientists – base themselves on a rationale that considers

Sebastián J. Lipina

Sebastián J. Lipina (Buenos Aires, Argentina, 1968). Doctor in Psychology. Researcher at the National Council for Scientific and Technical Research (CONICET, for its acronym in Spanish), Argentina. Director of the Applied Neurobiology Unit (UNA, CEMIC-CONICET). Assistant Professor responsible for the seminar on “Child Poverty and Cognitive Development” of the National University of San Martin (UNSAM).

Member of the *Center for Neuroscience and Society (CNS)* of the University of Pennsylvania (Philadelphia, United States). Co-director of *Mind, Brain and Education School* of the *Ettore Majorana Foundation and Centre for Scientific Culture* (Erice, Italy). Member of the Ethics Committee of the “Norberto Quirno” Centre for Medical Education and Clinical Research (CEMIC).

Research volunteer for the *On-call Scientists* programme of the *American Association for the Advancement in Science* (Washington DC, United States). Consultant to the Pan American Health Organization, UNICEF and UNDP.



biological organization levels as complementary to many others, including behavioural, social and cultural levels. In addition to labouring under the limitations of conceptual and methodological reductions characteristic of neuroscientific approaches, they base their study designs and their interpretation of outcomes upon the context of contemporary development science. This implies that the processes involved in the phenomena of poverty and development are complex, with multiple forms of determination and characterized by multi-directional interactions of events throughout the life cycle. In this conceptual context, which also involves a number of logistical and methodological limitations, it is impossible to reduce the complexity of poverty to the level of biological organization and make unilinear causal claims. Finally, it is clear that the evidence available is mainly associative, which imposes the need to advance in the identification of possible multiple causal mechanisms. In this complex epistemological and conceptual context, neuroscientists devoted to this field of study consider that the outcomes complement those of other disciplines, and taken as a whole, make it possible to consider poverty as a phenomenon which places persons at risk of failing to adapt to their social and cultural environments in such a way as to allow them to be decently included. Consequently, it is imperative to work on the appropriate design of studies which can contribute to improving our understanding of the many factors involved in these associations and their long-term consequences, which constitutes a continuing scientific challenge that necessarily involves several generations of researchers.

Nor are neuroscientific studies of human poverty suggesting normative social adjustment and maladjustment objectives in the manner of a neo-eugenics position; rather, they propose the optimization of neural adaptation processes that could eventually contribute to the realization of the rights and well-being of people throughout their life cycle. Neither do they consider that the available evidence necessarily implies fixed

or immutable processes during the life cycle. In any case, this will depend on discussions generated by the outcomes of new studies designed appropriately in order to investigate such objectives. In short, contemporary neuroscientific evidence on poverty is promising, but also of a preliminary nature, in terms of its potential to inform the design of policies. It should be considered that the neuroscientific approach to poverty began about fifteen years ago, and while there are some recommendations that may be of interest to policy designers – such as, for example, the consideration of the physiological processes involved in nutrition, sleep, physical activity and the regulation of stress – the evidence is not sufficient to support claims regarding the existence of a single sensitive period in early development, which, acting as a single determining factor, conditions people's life trajectory, generating immutable consequences for adults' well-being and skills. Should such proposals be maintained, it is necessary to discuss on the basis of what evidence and what political interest, inasmuch as any intervention action or proposal carries with it a specific political value (Nilsen, 2017). These debates also involve the need to discuss current and future evidence in terms of its contribution to the social processes targeting the care of children, adolescents, adults and the elderly who lack access to policies that safeguard their rights to health, education and work. In any case, we must work towards and learn how to improve the way we report on our findings, bearing in mind that policy design is a complex process involving multiple stakeholders and sectors with different interests, which at the same time conditions the implementation and evaluation processes.

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Last in line. Children and adolescents with disabilities in residential care in Latin America and the Caribbean

Matilde Luna

1. STUDY PRESENTATION

The principal motivation for this survey was based on a perception, shared by RELAF, UNICEF and its national counterparts, regarding the need to shed light on the situation of children and adolescents with disabilities (hereinafter “CAwD”) who are living in care institutions in Latin America and the Caribbean. The study was an attempt to discover the conditions these children are in, in relation to the enjoyment of their rights, and, on the basis of our findings, to produce recommendations in order to project political strategies and practices which will safeguard and restore these rights, with an emphasis on the right of all children and adolescents to grow up within a family and community environment, free from discrimination.

It involved a review of international and regional literature, an exhaustive reading of the follow-up reports issued by the Committee on the Rights of Persons with Disabilities (hereinafter “CRPD”) on twelve countries in Latin America and the Caribbean, and field work in three countries selected as control cases: Jamaica, Costa Rica and Uruguay.

Qualitative and quantitative information was gathered during the field work by means of interviews with key informants at the central level, and a self-administered survey among persons in charge of institutions in direct contact with CAwD.

2. GENERAL DIAGNOSIS AND PRINCIPAL FINDINGS

Both the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD), as well as the United Nations Guidelines for the Alternative Care of Children recognize the right of CAwD to live with their families and communities.

The CRPD, aware of how vulnerable CAwD are to their stay in care homes becoming “chronic”, has demanded that the States should “*where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting*” (article 23). In addition, the Committee on the Rights of the Child has declared itself in favour of the utmost efforts being made to prevent and “end institutionalization” of CAwD (Committee on the Rights of the Child, *The Rights of Children with Disabilities*, par. 47).

However, in many countries in Latin America and the Caribbean, a significant number of CAwD continue to live in residential care, and sometimes do so for most of their lives. This is the result of a situation which must change: many children are abandoned or handed over to residential care institutions because families feel that they cannot take on their care; many of them, owing to the lack of basic support. The institutionalization of these children does not lead to an improvement in their situation. On the contrary, they are often subjected to inadequate foster care conditions, which in some cases even involve cruel or degrading treatment which, over time, is accepted and naturalized.

Even considering the scarcity and the lack of clarity of the quantitative data available, it is possible to note that CAwD in institutions in Latin America and the Caribbean represent a large population. The reports submitted in participating countries make it possible to estimate that they amount to 20% of the children who are living in residential care. Taking as

a starting point a total estimated number of 240,000 children in residential care in Latin America and the Caribbean (UNICEF, 2012), we can calculate that no fewer than 50,000 CAwD are living in institutions in our region.

This approximate figure indicates that CAwD are over-represented in institutions. Similarly, the results of this study confirm that the institutionalization of children with disabilities tends to be for the longer term. The high prevalence of adolescents among the institutionalized population with disabilities reflects, in part, an “accumulated population”, as a result of the increased time spent in institutions and the lack of strategies to return them to their families and communities. It is not uncommon for adolescents with disabilities to reside in macro institutions, frequently together with adults with disabilities who have lived in these institutions their entire lives. At the same time, the participation of people with disabilities in programmes to prevent institutionalization and promote foster care and adoption is lower than that of children without disabilities.

A limiting factor when attempting to collect accurate data is the lack of updated parameters to adequately determine and identify the disabilities of institutionalized children. In the three countries analysed, intellectual disabilities are the most prevalent in residential institutions. However, the lack of guiding standards for institutions to keep records of disabilities results in high numbers of children registered under a category of “no data” or an indefinite category of “multiple disabilities”.

The absence or inadequacy of diagnostic parameters not only renders the situation invisible, with the immediate consequence of postponing the issue on the public policy agenda, but also has a direct impact on the possibility of establishing appropriate strategies for care, treatment and rehabilitation, which can promote the comprehensive development and autonomy of CAwD.

As Lansdown stated in her *Report on the Lives of Disabled Children*, submitted at the UN General Assembly Special Session on Children (2001), “disabled children are at greater risk of living without parental care. They are frequently hidden and forced to live in inappropriate care institutions”. The clearly disproportionate representation of CAwD among children and adolescents in institutions reflects, on the one hand, the well-known correlations between poverty, vulnerability and disability (UNICEF, 2013), but also, on the other, the tendency to institutionalize children with disabilities. Latin America and the Caribbean are not exempt from reproducing this global trend: the study has established that children’s disabilities constitute one of the main factors in their institutionalization. Superstitions and cultural taboos persist in the countries in this region that consider the arrival in the family of a child with a disability as a punishment for sins committed, or a curse that has fallen upon the family (Brognia, 2006). Very often, this form of stigma and the fear it generates result in CAwD being hidden away and kept apart from other children, isolated from their neighbours, their peers and other members of the family or the community. In these situations, many parents blame themselves for giving birth to children with disabilities and reject them, incurring in abandonment or neglect and, sometimes, demanding institutionalization. Many children are institutionalized without the safeguards of due process, with no administrative or court decision. This informality leads to unlawfulness and abandonment, which can be perpetuated until the child reaches the age of majority.

Poverty and disability are inextricably linked, since the first is a significant determining factor of the second and, at the same time, disabilities often trap people in poverty (UNICEF, 2013). In both developed and developing countries, families who have children with disabilities are more likely to be poor, due to the increase in expenditure and to the likelihood that one of the members of the household is obliged to quit his or her job in order to care for them (WHO-World Bank, 2011).

For these families with fewer resources, it is essential to have access to benefits and support, so that residential care does not become the only chance of gaining relief for the situation (UNICEF, 2009). In this respect, persisting stigma, low family and social expectations associated with disability, and the lack of access to support that might prevent the decision to institutionalize children strongly influence families' decisions, which view residential care as a "desirable" alternative, so that CAwD can have access to education and health.

The study has noted a tendency to segregate CAwD in "special" programmes and institutions in which they are excluded from contact and interaction with other children and adults without disabilities, where stigmatizing practices and dynamics prevail, reinforcing isolation. Some of these institutions have the characteristics of a macro institution. CAwD who live in macro institutions suffer serious consequences. To the lack of proper care and the impairment resulting from this, are added lengthy stays, which in some cases extend into adulthood. In addition, there are deficiencies involving a lack of integration with other children.

In some countries in the region, between 80% and 90% of children with disabilities live in institutions of this kind, where the prevailing intervention and care approach views disabilities as a health issue, to the detriment of a multidisciplinary approach, consistent with the "social model" proposed by the CRPD. Furthermore, in interviews and surveys conducted among people who work in direct contact with CAwD it was observed that there are low expectations in relation to their right to grow up within their family and community environment. This bias regarding the idea that children with disabilities "are not in a position to live independently" leads to making institutionalization natural and reduces opportunities for access to programmes to prepare children to live autonomously.

While all of the countries consulted are making regulatory

efforts and developing protocols to improve access to health, education, social inclusion and preservation of family ties of the children living in care, numerous hindrances are encountered when attempting to modify the conditions of institutions that contravene international guidelines. The principal barriers identified are: institutional inertia regarding the discrimination of children with disabilities, which leads to very low expectations in relation to their chances of development; lack of staff training and updating; insufficient resources for specialized therapy and rehabilitation equipment; lack of incentives to participate in external activities, and little control of institutional practices.

4. CONTROL CASES: COSTA RICA, JAMAICA AND URUGUAY

	COSTA RICA	JAMAICA	URUGUAY
Total number of CAwD in institutions	119 (PANI, 2016)	318, may amount to between 15% and 20% (Child Development Agency, 2016)	533 (24.3%) (SIPI, 2015)
Age	Newborn	Highest in children older than 6	As from the age of 3
Sex	54% male; 46% female	60% male; 40% female	55% male; 45% female
Type of Disability	No data		Intellectual and multiple disabilities
Reason for Admission	Disability, poverty and abuse	Disability, poverty and abuse	Disability, poverty and abuse
Means of Admission	Judicial	Judicial	Judicial
Type of Institution	90% in special institutions; 10% in regular institutions	90% in special institutions; 10% in regular institutions	82% in special institutions; 18% in regular institutions
Average Stay	Higher than for children without disabilities	No data	Higher than for children without disabilities
Family Visits	No data	No data	11% received visits (vs. 20% children without disabilities)

5. RECOMMENDATIONS AND ACTION LINES

The invisibility we have referred to includes a strong silencing element that perpetuates the disadvantages suffered by CAwD regarding their right to grow up and be cared for in their family and community environment, and naturalizes the dynamics of family separation, exclusion, confinement and discrimination. In all of the countries reviewed, the high number of CAwD living in residential care does not relate to their visibility in institutional and public policy agendas.

The main message that emerges from this survey has to do with the need for a new generation of public policies designed to actively protect the rights of CAwD who are deprived of family care or at risk of being so deprived. These policies should be informed by the current legal framework and should give priority to the following lines of action:

- » Eradicate the invisibility of this population, generating data regularly and using it to identify priorities and opportunities for improvement.
- » Establish updated diagnostic parameters to describe disabilities, based on the social model and the framework of rights proposed by the CRPD.
- » Identify, through interdisciplinary assessments, the support needs and personal development horizon of each child.
- » Strengthen training for technicians, in order to bring their practices into line with the rights-based approach and to develop the highest levels of autonomy possible for each child.
- » Develop and systematize new protocols for action, calling into question the low expectations of professional practitioners and institutions, and overcoming the restrictive approach focusing on limitations that has guided the care provided to children with disabilities.
- » Move forward in inclusion and put an end to segregation, aiming for the rich history that some countries have developed in the provision of “special” services in health and education for CAwD, using them in “common” areas for the benefit of all,

and promoting contexts of coexistence and inclusion.

» Conduct public campaigns against the stigma and prejudice associated with disabilities, in order to raise awareness with a human rights based approach and encourage society to appreciate and include children with disabilities.

» Feed the installed capacity and expertise accumulated in special institutions into new support programmes for families, in order to avoid institutionalization and promote foster and community care.

» Eradicate macro institutions.

» Involve social organizations associated with disabilities in order to implement new rehabilitation and empowerment programmes in support of families, with the purpose of preventing institutionalization and giving CAwD access to tools for autonomy and an independent life.



María Matilde Luna Director of the Latin American Foster Care Network - consultant

Ms Luna is a psychologist, with a master's degree in Childhood and Family Studies, as well as a university lecturer. She is also a researcher in the field of childhood, with a great deal of experience in producing handbooks and state of the art reports on children and child policies, mainly in relation to children who have been deprived of parental care and alternative care, with a focus on foster care.

She is the author of several pioneering books on foster care published in Latin America (the first in 1994) and has authored and coordinated a number of research studies on foster care and the rights of institutionalized children. In addition, she has led the production of alternative care standards in Argentina, Ecuador, Guatemala, Mexico and Panama, and collaborated technically with the drafting of standards in Brazil, Chile, Cuba, Paraguay and Uruguay.

As an independent expert, she contributed to the adoption of the United Nations guidelines on alternative care and was a member of global coalitions on child rights (Child Rights Connect, an NGO group on appropriate parental care and the Better Care Network) and participated in the production of international standards (a standards handbook for the application of the UN Guidelines for the Alternative Care of Children and its follow-up and monitoring tool). She has been invited to speak at conferences in many countries in South, Central and North America, and in the Caribbean, Europe, Africa and Asia. With wide experience in public institutions and NGOs, Matilde Luna is now the leader of RELAF, the Latin American Foster Care Network.

CALL TO ACTION: ENDING THE HUMAN RIGHTS VIOLATIONS AGAINST CHILDREN AND ADOLESCENTS HOUSED IN INSTITUTIONS

One year after the massacre of the girls at Hogar Seguro Virgen de la Asunción, the CEN, a joint RELAF and Hope and Homes for Children initiative, convened a webinar which was attended by more than 200 people from nearly 20 countries, where a call to action was launched: Ending the Human Rights violations against Children and Adolescents housed in institutions – available below.

We urge organizations and bodies that wish to do so, to join this call to action.

For further information and to join the Call to Action: <http://www.relaf.org/llamado-a-la-accion.html>

TECHNICAL SHEET

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Child soldiers are always victims studies on child poverty Sonia Panqueva

According to the definition established by the United Nations and adopted in the Cape Town Principles, the term "child soldier" refers to "any person under 18 years of age who is part of any kind of regular or irregular armed force or armed group in any capacity, including but not limited to cooks, porters, messengers and anyone accompanying such groups, other than family members. The definition includes girls recruited for sexual purposes and for forced marriage"¹.

The concept of child soldiers, which of course includes girls and teenage soldiers, does not only include those who take an active part in the conflict and bear arms, but also those who are associated with an armed force or group, providing support functions that can range from minor roles to extremely dangerous activities, such as spying, carrying bombs, sentry duties, acting as human shields and laying landmines. As chil-

¹ The Cape Town Principles on the Prevention of Recruitment of Children into the Armed Forces and on Demobilization and Social Reintegration of Child Soldiers in Africa, Cape Town, 30 April 1997, p. 8. In this respect, the international community has shown its awareness of the specific harm caused to children and youth; their recruitment is considered by the ILO's Convention No. 182 as one of the worst forms of child labour; the Rome Statute of the International Criminal Court considers it a war crime to conscript or enlist children under the age of fifteen years; and the Optional Protocol to the CRC on the involvement of children in armed conflict raises the minimum age established by paragraph 3 of article 38 of the CRC for direct involvement in hostilities from fifteen to eighteen, and prohibits compulsory recruitment for children under the age of eighteen. Voluntary recruitment for persons over the age of fifteen is permitted only into the States' national armed forces, and only when special safeguards for child protection are maintained.

dren grow older and stronger, they begin to be “promoted”, until they reach the active combat roles, but all of the functions they carry out from the start of their recruitment affect their integrity, safety and well-being².

The recruitment of children and adolescents constitutes a serious violation of the Convention on the Rights of the Child (henceforth, CRC), inasmuch as it involves a traumatic and painful experience for them as victims, not only on account of their own suffering, but also because of the suffering they cause others, which has an impact on their child development and their own abilities to survive. Recruitment subjects them to harmful practices in a violent setting, with extremely serious physical and psychological consequences, which affect their lives negatively and irreversibly.

While recruitment may be a difficult and painful experience for adults, in the case of children and adolescents, bearing in mind their particular vulnerability, and the need for protection and care in the enjoyment of their rights, as well as their stage of development, the experience of recruitment cannot be equated with that which adults experience. There are three features which distinguish the two cases: the capacity to consent, the lack of family protection and the risk to their development and survival.

In connection with consent, the violent and insecure circumstances which are typical of conflicts imply that those who decide to join armed groups “voluntarily”, do so because it is the only option available for their own protection and survival. It is not, therefore, a decision taken freely; it is only another of the various forms that have been adopted to recruit children and adolescents³. Indirect coercion is always present when children’s willingness to join one of the parties to the conflict

² Mark, L.: *Child soldiers. Care and protection of children in emergencies – a field guide*, Ed. Save the Children, 2001, p. 3.

³ United Nations Secretary-General’s report submitted to the Security Council on children and armed conflict in South Sudan, S/2014/884, 11 December 2014, par. 29. Mark, L.: *Child soldiers. Care and protection of children in emergencies – a field guide*, Save the Children, 2001, p. 3.

is a result of ideological manipulation, or the destruction of their families. In these armed groups or forces, children find a social structure to which they can cling in order to meet their basic needs⁴.

In addition, they do not yet have the mental maturity or sufficient capacity to make decisions that will affect their lives so dramatically as participating in conflicts will do⁵.

The infringement of the rights provided for in the CRC and the severity of the harm caused to child soldiers by war is of such magnitude that they should always be viewed as victims, even when they have committed crimes⁶.

Regarding the lack of family protection, they have been compelled to abandon their families to be trained, indoctrinated and used in the conflict without the intervention of family members who could protect them, with a view to making them completely vulnerable to the decisions and actions of the force or group to which they belong⁷.

It is essential for children to enjoy their right to a family life, to preserve their connections to their loved ones and to grow

⁴ See: Sedky-Lavadero, J.: *Ni un niño solo en la Guerra. Infancia y conflictos armados*, Ed. Icaria-CIP, Barcelona, 1999, p. 29. Van Bueren, G.: *The international law of the rights of the children*, Ed. Martinus Nijhoff Publishers, Dordrecht, 1995, pp. 335 and 336. Cohn and Goodwin-Gil note that when children decide to join an armed force or group they have been influenced by the adults around them: “The proliferation of ethnic conflicts fuelled by the generational transmission of adult hatreds makes it increasingly important to focus on the influence of adults’ subjective perceptions on children”, Cohn, I.; Goodwin-Gil, G.: *Child soldiers. The role of children in armed conflicts*, Oxford University Press, New York, 1997, p. 36.

⁵ A number of authors hold the view that children under the age of eighteen should be prohibited from taking both a mandatory and a voluntary part in a conflict, since they consider that conflict is contrary to the best interest of children. See: Wessels, M.: “Child soldiers”, *The Bulletin of Atomic Scientists*, vol. 53, n°6, November-December 1997, p. 36. Cohn, I.; Goodwin-Gil, G.: *Child soldiers. The role of children in armed conflicts*, Oxford University Press, New York, 1997, p. 36.

⁶ The Paris Principles, a political commitment undertaken by the 105 Member states of the United Nations for the protection of child soldiers and which forms the basis for the Cape Town Principles, establishes in its paragraph 3.6 that: “Children who are accused of crimes under international law allegedly committed while they were associated with armed forces or armed groups should be considered primarily as victims of offences against international law; not only as perpetrators. They must be treated in accordance with international law in a framework of restorative justice and social rehabilitation, consistent with international law which offers children special protection through numerous agreements and principles.”

⁷ UNICEF: *Guide to the Optional Protocol on the involvement of children in armed conflict*, 2004, p. 3.

up in an environment in which their rights are protected and promoted, where the care provided by their parents or legal guardians is essential to building their identities and life plans (Arts. 5, 7, 8 and 9 CRC), and in the event that the family is not able to extend this protection, it is the State's responsibility to provide this indispensable protection.

Finally, the risk to children's development and survival posed by their involvement in conflict entails their experiencing traumatic and dangerous situations that threaten their lives, and, if they survive, impede their normal and healthy development, with serious physical and psychological consequences.

They are more vulnerable than adults to the harsh conditions, demands and risks of military life, mainly because they are weaker and their growing bodies require that certain conditions regarding food, rest and shelter be met in order to develop physically. For example, it has been found that children suffer from hernias from carrying weapons that are too heavy for their size, and eye injuries caused by the force of the weapons' recoil when operated, which the greater strength of an adult can counteract. Specifically with regard to girl and female teenage soldiers, the situation is exacerbated with early pregnancies, sexually transmitted diseases, infections, miscarriages, reproductive issues, and genital lesions and mutilation⁸.

These characteristics, together with the specific needs of children and adolescents, cause recruitment to have a far-reaching impact on their lives, in the development of their personalities and in their capacity to plan a future.

Because of this, when children are rescued, or extricated from the armed forces or groups to which they have belonged,

⁸ Blom, F; Pereda Beltrán, N.: Niños y niñas soldados: consecuencias psicológicas e intervención, *Anuario de Psicología*, Universitat de Barcelona, vol. 40, n° 3, 2009, pp. 335 and 336. Blom and Pereda Beltrán indicate that unlike the features of sexual abuse in Western countries, in the case of child soldiers, sexual abuse does not usually occur in a context in which the abuser has gradually earned the trust of the child, but in one where the use of violence is frequent, with the serious implications of this type of abuse for the child's physical and psychological development.

measures and channels should be in place which are sensitive to the best interest of the child, and ensure the realization of the rights inherent to their dignity in a healthy and safe environment, allowing them to resume their lives and, in the best of cases, go back to being children and teenagers.

In the specific case of Colombia, and in the framework of the peace agreement signed between the Government and the Revolutionary Armed Forces of Colombia (FARC for its acronym in Spanish), on 24 November 2016, 124 minors were officially demobilized, of whom 53 were girls and 63, boys⁹.

Two of the problems which have emerged in the process of reintegration into society should be particularly noted.

The first is that in the peace agreement, the FARC's proposal regarding the demobilized children was accepted. This was that instead of reincorporating them into civilian life through the national care programme that the State has been implementing for almost 20 years, it should be done through a new special programme, in which reintegration would be carried out collectively and hand-in-hand with the community, finding temporary places or shelters for the children and teenagers, close to the country areas in which the demobilized adults would be settled. The teenagers would each remain there between two and four months and would be provided with specialized medical and psychological care, civil registration, and school assessment, and they would be reunited with their families.

To this end, it was stipulated that the National Council for Reinstatement would draw up "the guidelines for the Special Comprehensive Programme for the restitution of the rights of children leaving the FARC-EP"¹⁰.

⁹ Figures according to official UNICEF sources.

¹⁰ Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace, in its point 3 related to the end of the conflict, stipulates that the reincorporation of the FARC-EP would be determined by the National Council for Reinstatement.

In fact, this Council, created on 7 December 2016; that is, over a year ago, has still not concluded the process of designing a programme for the reintegration and restoration of the rights of children under the age of eighteen. This process should have established or created a competent authority, a structure and a clear budget source, in order to strengthen the process of reintegration and social inclusion, in accordance with the individual circumstances and interests of each demobilized child or adolescent, as well as provided relevant support throughout the process¹¹.

This leads to the second problem. As the Programme with the special features agreed upon in Havana is not in place, the national Government, with the support of UNICEF and other co-operation agencies, has attempted to provide support to the teenagers¹² and implement the programme. However, without the necessary legal structure and human resources, it can hardly be expected to cope with such a complex and delicate situation, which entails the reintegration of every child and adolescent, added to the difficulty of dealing with the condition of a collective reinstatement and the security issues that are emerging.

Since the foster homes are close to the areas intended for demobilized adults, contact between children and adults has been constant, and the FARC, therefore, has not lost its control over them, which prevents them from acknowledging and accepting themselves as victims, a fundamental part of recovering their identity as individuals and unique persons, and putting the recruitment experience behind them.

During recruitment, violating children's right to an identity is essential so that they will adapt to the degrading treatment inflicted upon them and to the routine of war. Children must set aside all of the features that identified them as unique in-

¹¹ Created by means of Decree 2027 of 2016, of 7 December 2016, with two members of the national Government and two members of the FARC.

¹² All of the demobilized children are over the age of fifteen.

dividuals in order to become soldiers with the sole function of serving the group and obeying orders.

Their names, family ties, affections, personal histories and all of the attributes that distinguished them from others are relegated to the background when they are dressed in uniforms and coerced into surrendering completely to war and to playing the roles they are assigned.¹³

In the face of difficulties in locating the families of the demobilized children, or the inability of their families to take their children back, or simply the lack of the necessary psycho-social and legal support, owing to the absence of a Reintegration Programme with all that it implies, some of the teenagers are renouncing the reintegration process, which leads to their not being recognized as victims and being denied their right to measures of satisfaction and guarantees of non-repetition as indicated in the Victims and Land Restitution Act.¹⁴

When it comes to the demobilized children and adolescents, the Peace Agreement did not bear in mind that the best interest of the child is non-negotiable, inasmuch as its aim is to ensure "both the full and effective enjoyment of all the rights recognized in the Convention and the holistic development of the child", by means of understanding and respecting its threefold dimension as a substantive right of children, an interpretative legal principle and a rule of procedure.¹⁵

Colombia, as a State Party to the CRC, has an obligation to ensure that in all actions taken in relation to children and adolescents, their best interest should be taken as a primary consideration. This entails safeguarding the rights of each according to his or her individual circumstances¹⁶.

¹³ UNICEF- Innocenti Research Centre: *Children and Commission for reception, truth and reconciliation in Timor-Leste*, Innocenti working paper, 2010, pp. 3-4.

¹⁴ Par. 1 of Art. 3 of the Victims and Land Restitution Act.

¹⁵ General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, CRC/GC/14, par. 4 and 6.

¹⁶ Art. 3 of the CRC. Colombia ratified the Convention through its Law N° 12 of 1991.

The best interest of children and adolescents who were victims of recruitment by the FARC necessarily involves breaking any ties that bind them to the organization which for years imposed upon them the obligation of being warriors and allies, to the detriment of their rights and in violation of their status as children.

Both the acceptance of the condition of collective reintegration and the absence of the design and implementation of a specific programme shows that the recovery and rebuilding of the lives of children and adolescents are not a post-conflict priority. This is a huge mistake, since the health and well-being of these children has a short, mid and long term impact on building the peace that Colombia so desires.

Sonia Panqueva

The author holds a licentiate degree in Law from Colombia's University of Los Andes, as well as a degree in Law from the Complutense University of Madrid, and a PhD in Contemporary Migration from the Comillas Pontifical University of Madrid.

She is a member of the Illustrious College of Lawyers of Madrid and practices in Spain as a lawyer and consultant specializing in child rights.

soniapanqueva@gmail.com



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Parenting guidelines and practices in rural Paraguay¹

Claudia Pacheco, Rodolfo Elías, Patricia Misiego

Summary

This article describes child-rearing guidelines and practices in early childhood within the various cultures to be found in vulnerable contexts. The research study was conducted with a qualitative approach; specifically, by using life stories and case studies. Qualitative research is in line with the objectives of this study, which seeks to gather and analyse perceptions, beliefs, values, expectations and practices in communities (in selected contexts) with regard to bringing up children during their earliest years (from 0 to 8 years).

The outcomes have shown differences between families in terms of relationships, family ties, and child-rearing guidelines and practices in different contexts. Specific situations can be pinpointed to illustrate the relationship between families and social services. In all cases, misinformation about the services and access difficulties prevailed.

Key Words: Parenting, child-rearing guidelines and practices, early childhood.

¹“Childhood reflected in ten life stories” was a study conducted by the NGO Global Infancia for the National Secretariat for Children and Adolescents (SNNA for its acronym in Spanish), within the framework of the Non-Refundable Technical Cooperation Programme, Strengthening Public Policies for Children and Adolescents, which received funding from the Inter-American Development Bank (IDB). The research team included: Rodolfo Elías Acosta, Claudia Pacheco, Johanna Walder, María Elena Cuevas, Patricia Misiego Telesca, Martha Benítez Ayala, María de Lourdes Gómez Sanjurjo and Mavyth González.

Abstract

This article describes child-rearing guidelines and practices in early childhood within the various cultures to be found in vulnerable contexts. The research study was conducted with a qualitative approach; specifically, by using life stories and case studies. Qualitative research is in line with the objectives of this study, which seeks to gather and analyse perceptions, beliefs, values, expectations and practices in communities (in selected contexts) with regard to bringing up children during the earliest years (from 0 to 8 years).

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Introduction

Knowledge of child-rearing guidelines, practices and beliefs enables us to understand, provide support and improve the parenting process, respond to diversity, respect cultural values, provide continuity during times of change. It allows us to analyse the various changes which are taking place in family and community dynamics: changes in traditional family roles, their structure and functions, the role of men in parenting, changes in how female children are viewed and in the nature of women’s work, changes in migration patterns and, finally, to analyse the presence of values linked to “modernity”: education, health, non-traditional social support, such as in the case of technology (Evans and Myers, 1995).

In Paraguay, there is little knowledge of the guidelines and practices of parenting in vulnerable contexts, such as indigenous communities, Afro-descendants, settlements, rural areas or the families of disabled individuals, in particular when it comes the earliest years.

Mustard (2006) states that “...the social environment exerts a profound influence on the population in terms of health, learning, behaviour and competence”. It is undeniable that children’s development is mediated by the context in which it occurs.

Children’s surroundings affect the manner in which neural connections establish relationships. The social context, therefore, has a significant influence on child development and there are beliefs and practices embedded in the culture, which are key elements in promoting development. Cultural differences in parenting guidelines and practices are a key aspect in achieving comprehensive development in a relevant manner.

We should acknowledge that as Paraguay’s multicultural reality has an influence on each culture’s child-rearing guidelines and practices, every sector should be made visible. Denying this would imply that this diversity becomes diluted within one prevailing culture, foreign to its reality. Indigenous, rural, and Afro-descendant populations, as well as those in settlements, and those with disabled children, have their own cultural characteristics and in the early years, the notion of comprehensiveness is directly related to the affirmation and identification of children with their own cultural context.

What are parenting guidelines and practices?

The concept of **parenting practices** refers to the actions, habits and customs that members of a social group or of a particular society perform in terms of the attention and care they pro-

vide to their children. These customs or actions are embedded in daily life and there is usually no awareness or reflection in their regard, which raises a number of aspects that must be analysed in detailed (Myers, 2000)

At the fore, the idea of **child-rearing**, according to such authors as Myers, 2000; Aguirre, 2000; Aguirre & Duran, 2000, is inherent to family relationships, in which the role played by fathers, mothers and caregivers in bringing up their children is enhanced. This phenomenon belongs to the field of human interaction, within the framework of a very specific interpersonal relationship, noted for its power, affection and influence. Adults are manifestly convinced that they are there to fulfil a duty of care and guidance; or, as it was thought in the past, to “domesticate, civilize and tame”, from a perspective of autonomy and repression. This concept also involves three psychosocial processes: the practices themselves, the guidelines and the beliefs.

The concept of **practices** should be viewed as interconnected actions, which have a beginning and evolve over time. “It is deliberate and regulated conduct [...] it is what adult caregivers actually do when they look after children. These are actions aimed at ensuring the survival of infants, promoting their growth and psychosocial development, and facilitating the learning of knowledge which will enable children to recognize and interpret their surroundings” (Aguirre, 2000).

One of the features of these **practices** is the fact that most of them are learned actions, derived both from the child-rearing relationships in which the adults were involved and from referring to the behaviours of other parents. It could be said that practices are not very fully thought-out notions regarding how children should be raised. Therefore, the rationale that underpins child-rearing practices depends on the parents’ cultural, social, economic and educational level.

Practices are manifested in the specific ways that individual situations or conditions are addressed (such as those involving food, affection, crying or special needs). According to Aguirre (2000), this relationship between parents and children is not a one-way process; that is, it is not a type of influence that acts only from adults to children, but that children also influence the behaviour of adults, which means that, to a certain extent, they have the ability to redirect adults' actions. What we see before us is a reciprocal relationship between the participants in the bond. These practices, therefore, have a double dimension which should be recognized: the influence of adults over their children, and children's capacity to exert control over the behaviour of their parents or caregivers (Aguirre, 2000). While these two aspects are essential when attempting to understand parenting practices, considering the purpose of this study, we shall focus on the characteristics and behaviour of fathers, mothers and caregivers towards children.

Regarding the **guidelines**, they are the precepts that direct the actions of parents; that is, a system of rules that guide adults towards what to do in the face of children's behaviour. They refer to what is expected as regards the steering of actions affecting children. According to the same author (Aguirre, 2000), they are "the direct link to the cultural factors that influence the reference group. For this reason, guidelines appear to be restrictive and quite inflexible, which does not mean that they cannot be changed over the course of time".

Practice diversity from the perspective of rural culture and of urban culture.

The objectives of child development and the values and beliefs systems that affect parenting practices tend to vary according to class origin and culture. Territorial and geographical issues are significant factors when undertaking an analysis of early childhood care with a holistic and rights-based approach.

Paraguay [...] is a multiethnic, multicultural and multilingual country [...] linked to the structure of its communities and cities and/or its production system, use of natural resources, technology and working relationships. (Demellenne and others, undated).

Current rural-urban analysis poses a more dynamic vision of the two realities, in which both have undergone important changes in lifestyles, values, and their association with information and communication technology, and have diversified into the production of goods and services. All of which, according to Itzcovich (2010) led to a more functional integration of rural and urban communities.

While it is true that the geographical factor has a significant bearing on access to services, for a number of reasons, the demographic criterion is now insufficient for the classification of localities.

Other aspects that influence the diversification of these contexts are related to economic issues (migration motivated by the need for a higher income, type of work or employment); population distribution within communities; literacy and education levels, especially of the mother; family patterns, especially the role and situation of the mother, among others.

There are, therefore, areas that are classified as rural, but which respond to a fictitious border; in fact, the conditions prevailing in them are urban: owing to their road infrastructure, there is a flow of people, goods and services that means that they belong to a different category (peri-urban) (Itzcovich, 2010). On the other hand, some new settlements, because of their geographic dispersion, are located at a significant distance from service centres or have little infrastructure to enable gaining access to them.

Thus, in these contexts, it is frequent to see family members forming an economic unit: they work and produce together

for the well-being of the group. Each member seeks the common good of the group, rather than his or her particular interest. These are not seen as formal contracts and the family itself provides its members with a substitute for social security.

However, the principle of mutual aid no longer refers to the extended family, with all of its ramifications, but to a nuclear family (Guttandin, 2007).

Families are situated in this diversity of contexts and, within them, they establish the guidelines and practices they use in caring for children. These features generate family models with dynamics which display significant commonalities, even while also exhibiting a number of differences. Guttandin (2007) indicates that although the traditional form of family organization in age-old rural areas is the extended family (family ties and linkages with non-family persons introduced into the system by means of the *compadre/comadre* tradition; that is, the god-parents or “co-fathers” and “co-mothers” of the family’s children), this does not necessarily occur in these new territorial conformations.

The advance of a settlement, for example, is accompanied by a regrouping of the family: most families in recently colonized areas are composed of parents and children.

In contrast to this nuclear family model, there are also many single mothers, since it is usually the men who abandon their families.

The expanding market economy has enabled peasants to earn salaries outside the family environment. Loyalty to the family group is thus diminished, as it is by means of paid employment, particularly in the villages, that day-labourers can become independent of the family-based economic system. The market economy, which has slowly spread to rural areas, generates new expectations regarding consumption amongst peasants and leads to changes in some of their traditional family values.

However, Demellenne (2006) states that although mobility has been a survival strategy for many Paraguayan families (migration to countries with greater opportunities for work, temporary employment during harvest periods), and demonstrates their capacity to adapt, it also leads to the weakening of the family-based social structure.

In other cases, according to Guttandin (2007), when temporary or permanent separations occur, the nuclear family disintegrates entirely: children live with grandparents, aunts, or elder sisters or are even cared for by third parties (neighbours, godmothers).

Different socio-cultural contexts; different parenting practices; a plurality of “childhoods”

A starting point for this research study was recognizing Paraguay’s socio-cultural diversity and that it is also reflected in different conceptions regarding family, parenting and child development. We have not touched upon all possible scenarios in this paper (we have opted to address certain sectors, in particular those among the poor population); however, we have been able to identify differences among these families with regard to their relationship with their social and physical environment, in their couple relationships, in how the families are formed, their bonds and their parenting guidelines and practices.

For example, we have identified stronger community ties in rural settings where many decisions are made within the community and with a sense of responsibility in the upbringing of children that exceeds that of the adults of the family to which they belong.

We can pinpoint specific situations involving each context with regard to the relationship between families and social services.

In all cases, misinformation about the services and access difficulties prevail. Differences have also been found in parenting styles, play, food provision, care, hygiene and other aspects.

Some parenting practices observed:

The accounts arising from the research illustrate in different ways the practices engaged in by persons responsible for child-rearing as regards care, feeding, hygiene and boundary setting. While we did observe some fathers caring for their children, when it comes to gender roles, in all cases, child-rearing is the responsibility of the women: mothers, grandmothers, aunts, even sisters. From a very young age, girls begin to take on more domestic responsibilities, while the boys are given more freedom of action. Also noticeable is the role played by older brothers and sisters in caring for their younger siblings. These children assume autonomous behaviour from their earliest years.

Food provision involves a number of different situations. In some cases, traditional practices are maintained, linked to the rural environment and to production for self-consumption, with certain other items included, which do not always contribute to adequate nutrition. Another aspect that should be underscored is that most mothers stated that breastfeeding was a frequent practice, which could even be stretched out over several years.

As regards boundary setting, we observed different practices, from those that rely heavily on corporal punishment to those in which children are given great freedom and are rarely rebuked or restrained.

In relation to play, the most prevalent practices involve group games with other boys and girls of the community, which include physical activity and rules.

In the various accounts we analysed, toys are associated with objects found in the surroundings (branches, pieces of wood, boxes) and not necessarily with items purchased. This without a doubt stimulates the “*as if*” style of play, which is so characteristic of the evolutionary stages being experienced by the boys and girls in this study. In playing at imitating the everyday activities in their surroundings – cleaning, hoeing, cooking and so on – these activities generate the capacity for symbolic and imitative play.

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Claudia Pacheco

Teacher trainer and researcher,
Global Infancia



Rodolfo Elías

Psychologist and researcher,
Desarrollo Institute



Patricia Misiego

Teacher trainer and researcher,
Desarrollo Institute.



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Childhood and adolescence: violence in general, torture and physical, cruel or degrading punishment.

Legislative measures in Latin America and the Caribbean: legal and political-institutional effectiveness

Wanderlino Nogueira Neto

Systematic studies seek to qualify, quantify and provide parameters so that public policies, access to justice and the actions of national institutions for the defence of human rights become legally efficient and socio-politically effective in fighting violence against children in Brazil, the Americas and the Caribbean, or throughout the world, particularly in fighting fatal violence, torture, and physical, cruel or degrading punishment.

Violence inflicted upon and suffered by children – whether moral, physical or sexual – occurs in the most diverse environments. From actions known as “disciplinary” in schools or shelter institutions, to bullying and discrimination by their peers, coercion at work, abuse at home; or risk situations such as smuggling and pornography, all the way to fatal violence. All of these inhuman attitudes are part of the daily life of millions of children and adolescents throughout the world, and most particularly in the Americas and the Caribbean.

A recent official United Nations study on the subject, coordinated by the UN’s Special Rapporteur, Paulo Sérgio

Pinheiro, appointed by the United Nations Secretary General, reveals the following:

“Violence against children exists in every State and cuts across boundaries of culture, class, education, income, ethnic origin and age. In several regions, violence against children is an accepted phenomenon and, frequently, legal.”

According to this study, with regard to the general outlook of violence against children, in at least 106 countries corporal punishment is not legally prohibited in schools; in 147 countries it is not prohibited in alternative care institutions and only 16 countries so far have prohibited its use in the home. In many countries, legislation focuses on penalties against sexual or physical violence against children, without taking psychological violence into account, nor measures for prevention, recovery and reintegration. In this regard, PINHEIRO states that:

“Efforts to tackle the question of violence against children are frequently reactive and focus on its symptoms and consequences, rather than on its causes. Strategies tend to be fragmented and inadequate resources are allocated to measures designed to address the problem. In addition, international commitments to protect children from violence often do not translate into concrete action at the national level.”

The Special Rapporteur feels that it is not enough to condemn the practitioners of violence. It is necessary to change the mindset of societies and the underlying economic and social conditions that cause it. He suggests, for example, that the States should prohibit the death penalty and life imprisonment for children under the age of 18 years; that corporal punishment should be penalized; that the systematic training of professional practitioners and lay people who work with children should be promoted; that safe means of reporting

be devised, as well as for data collection and research. He also suggests that medical care, education and social welfare and prevention services should include programmes for home visitation and guidance for parents, as well as income-generating programmes for disadvantaged groups. Finally, he recommends reducing the number of children under the age of 18 who are kept in judicial institutions and implementing regular reassessment of detentions/ admissions, as well as fighting illegal child labour.

The right of children and adolescents to be protected and sheltered from all forms of violence is enshrined in various international treaties adopted by the United Nations; most particularly, the International Covenant on Civil and Political Rights (ICCPR), which, in its article 24, establishes that

“1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.”

Likewise, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment protects children against torture and other cruel, inhuman or degrading treatment or punishments.

In its General Comment No. 17 (adopted a few months before the adoption of the Convention on the Rights of the Child), the then Human Rights Committee of the UN stated that article 24 of ICCPR provides that:

“[...] every possible economic and social measure should be taken to reduce infant mortality and to eradicate malnutrition among children and to prevent them from being subjected to acts of violence and cruel and inhuman treatment or

from being exploited by means of forced labour or prostitution, or by their use in the illicit trafficking of narcotic drugs, or by any other means.”

However, the inevitable starting point for any intervention or analysis in the field of threats to or violations of child rights is the UN Convention on the Rights of the Child, which is – no more, no less – the international human rights treaty with the largest number of ratifications.

According to the CRC, States Party have a duty to submit to the UN Committee on the Rights of the Child, *“reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights”*. These reports are submitted two years after the ratification of the Convention by a particular State Party and, thereafter, every five years. Currently, there are long delays in the submission of reports by the States Party, and even on the part of the Committee itself.

The Committee on the Rights of the Child (of which I have been a member since May 2013) is composed of eighteen independent experts, considered to be of *“high moral standing and recognized competence in the field covered by this Convention”*. They are elected by the United Nations General Assembly, as I was, with one of the highest ratings in the history of the Committee, in December 2012, with the support of both the Government of Brazil and its organized society and international experts in the field.

Article 19 of the Convention directly addresses the issue of violence against children and determines that *“States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child”*. This

article deals with the issue of violence in general, while other provisions address specific forms of violence and exploitation against children in special situations.

As we have mentioned, all States Party to the Convention have the duty to submit reports on how the Convention on the Rights of the Child is being applied in the country. These reports should refer to the factors and difficulties that impede compliance by the State Party of the obligations arising from the Convention, and they should contain sufficient information to provide the Committee with an accurate idea of how the Convention is applied in that country.

These regular reports should include information that takes into account the concluding observations relating to the Committee's previous report on areas of concern it identified, as well as the difficulties that may have affected compliance with such suggestions or recommendations; the measures adopted in order to follow the suggestions and recommendations addressed by the Committee to the State Party; and the measures adopted for the dissemination of both the previous report and the concluding observations provided by the Committee. The reports submitted by the States Party are discussed in public, with the intervention of States Party representatives and members of the Committee. Once the analysis of the report has concluded, the members of the Committee present their final observations and recommendations, which arise from their assessment of the reports, as well as from the discussions held with representatives of national delegations. The final document highlights the positive aspects, the factors and difficulties impeding the implementation of the Convention and the Committee's main areas of concern, as well as a set of suggestions and recommendations addressed to the State Party.

Should the Committee consider that certain matters need further clarification, the State Party is asked to provide additional

information; that is, it is given a list of issues or questions. Because of this, the wording of the Concluding Observations and Recommendations is seen to be highly important as a way to assess how the Committee has interpreted and analysed the provisions of the Convention, and how the evolution has been observed in the States Party with regard to the realization of the fundamental rights enshrined in the Convention.

Therefore, I shall now attempt to review some of the General Comments concerning the provisions of the Convention; some of the targeted Final Guidelines and Recommendations issued by the Committee on the Rights of the Child, which addressed the issue of violence against children and adolescents, particularly corporal and cruel and degrading punishment, which our Committee urgently condemns.

I intend to divide the issue of violence in general into categories, with, however, violence expressed as physical, cruel and degrading punishment mainstreaming the whole. This kind of violence has appeared as liable to occur in the following situations:

- A. domestic and family violence,
- B. violence at school, and
- C. violence in other, alternative care institutions intended for juveniles in conflict with the law.

In relation to the first issue – **domestic and family violence** – our Committee has shown its concern regarding the following regrettable situations found in the three regular reports on the situation of children in every State Party in the world; that is, (1) reports submitted by governments on behalf of the States Party; (2) reports submitted by national organized society groups; and (3) reports submitted by the local offices of UNICEF. Thus, in sum, these matters have been observed and are to be regretted:

- A. The fact that corporal punishment is lawful and continues to be used as a method of discipline;
- B. The absence of laws and specific and appropriate programmes that aim to prevent and combat sexual abuse;
- C. The absence of an overall strategy whose aim is to put an end to violence against children within the family;
- D. The practice of female genital mutilation;
- E. The fact that there is no legal prohibition of reasonable corporal punishment in the family.

In the face of these findings, the Committee has systematically addressed the following recommendations to the States Party with a view to putting an end to cases of violence within the family, which can well be fatal:

- 1) Ensure that all forms of physical and mental violence, maltreatment and abuse, including corporal punishment and sexual abuse within the family, are prohibited by law.
- 2) Adopt measures and policies to contribute to changing attitudes in relation to physical and mental violence within the family.
- 3) Review the legislation concerning the age limit below which special protection is guaranteed against all forms of violence.
- 4) Take into account the recommendations of the Committee, adopted at its Days of General Discussion on violence.
- 5) Ensure the existence of support services, such as psychological recovery and social reintegration, as well as the prevention of the stigmatization of children, and strengthen programmes for the rehabilitation and reintegration of child victims of abuse.

- 6) Promote training for teachers, police officers, social workers, judges and health workers in the identification, reporting and treatment of cases of abuse.

Regarding its statements on the second issue – **violence in schools** – the Committee has expressed concern about the prevalence of the following situations:

- 1) Mistreatment of children, including sexual abuse, in schools and institutions.
- 2) Inadequate protection of children against abuse, even sexual abuse, in day care centres.
- 3) An absence of comprehensive strategies.
- 4) Continuing use of inappropriate methods of discipline, including corporal punishment, in teaching centres.
- 5) Lack of legal prohibition of the use of corporal punishment in schools.

In the face of this violence against children in schools, especially corporal punishment and cruel and degrading treatment, the Committee has recommended that:

- 1) All forms of physical and mental violence against children, including corporal punishment and sexual abuse, should be prohibited, and positive forms of discipline should be promoted.
- 2) Measures should be taken and mechanisms devised with a view to preventing fighting between students.
- 3) The necessary measures should be taken to ensure that persons previously convicted of offences against children should not be able to work in institutions that cater to them.
- 4) Education on human rights issues should be included in the school curriculum.

5) The prohibition of corporal punishment in schools and other institutions should be ensured.

6) Measures should be taken to put an end to fighting among students, paying special attention to the situation of disabled children and of foreign children.

The Committee has expressed concern with regard to **violence that takes place in alternative care centres, especially those catering to children in conflict with the law**; namely:

1) Large discrepancies between national legislation in the field of juvenile justice and the principles and provisions of the Convention.

2) The large number of allegations of mistreatment and torture of children by police officers during the phase that precedes the trial; in prisons and other institutions.

3) The increasing number of persons under the age of eighteen who have been detained.

4) The lack of appropriate alternatives to imprisonment.

5) The absence or lack of clarity regarding the age of criminal liability.

6) The fact that children are sometimes detained or imprisoned in establishments intended for adults.

7) The inhuman way that children are treated in psychiatric hospitals.

8) The disproportionately high number of children from different ethnic, religious, linguistic and cultural backgrounds involved in proceedings in the juvenile justice system.

Under the terms of Rule No. 77 of the Committee's Rules of Procedure, the Committee may also, at regular intervals, prepare **General Comments** based on the articles and provisions of the Convention, with a view to promoting its

further implementation and to assist the States Party in fulfilling their reporting obligations. This possibility is also enshrined in the rules of procedure of other Treaty Bodies of the United Nations High Commissioner for Human Rights (women, persons with disabilities, etc.), which have a long tradition in the production of general comments regarding the precepts of their respective conventions.

Despite the interest and concern that has been shown in the matter of violence against children, the United Nations Committee on the Rights of the Child has not yet adopted a General Comment on the issue of violence. However, in the five General Comments that it has already adopted regarding other matters, it addressed certain dimensions of violence against children, as a cross-cutting issue.

In addition, in accordance with Rule No. 79 of its Rules of Procedure, the Committee may devote one or more meetings of its regular sessions to a general discussion on one specific article of the Convention or related subject. Therefore, in 2000 and in 2001, the Committee devoted two Thematic Discussion Days to the issue of violence against children. In 2000, discussions focused on the sub-theme of "*State violence against children*", and in 2001, on "*Violence against children within the family and in school*". One of the outcomes of these two thematic discussion days was the recommendation made by the Committee with regard to requesting the United Nations Secretary-General, through the General Assembly, to conduct an international study of violence against children. The Committee emphasized that this study should be as "*comprehensive and influential*" as the United Nations study of 1996 on the impact of armed conflict on children, also known as the "*Machel Study*", as it was conducted by Dr. Graça Machel, of Mozambique.

Finally, five United Nations senior specialists in child rights gave their views on the issue of violence against children in the world: Kyrsten Sandberg, chair of the Committee on

the Rights of the Child; Marta Santos Pais, United Nations Special Representative of the Secretary-General on Violence Against Children; Leila Zerrougui, United Nations Special Representative of the Secretary-General for Children and Armed Conflicts; Najat Maalla M'jid, UN Special Rapporteur on the sale of children, child prostitution and child pornography; and Susan Bissell, UNICEF's Child Protection Section chief. They suggested that the governments of the world should include

"[...] the protection of children in their development agendas as from 2015 in order to effectively combat all forms of violence, prevent crime against them and bring to justice those responsible for the sexual exploitation of children, the recruitment and use of children in armed conflicts" [...] "Every day, millions of children suffer from violence, neglect, abuse and exploitation at home, in schools, in institutions, and in the community. Social tolerance towards certain forms of violence and exploitation and difficult living conditions, in particular, poverty, place children at additional risk. Although the actual scope of these phenomena cannot, unfortunately, be determined, because in most cases they are unreported, we are aware of the difficult situations that countless children around the world are facing," the experts emphasized. "The current draft for the Millennium Development Goals has not adequately included the protection of children, despite the fact that the promotion and protection of children's rights is inherent to the development of societies. It is imperative for the post 2015 agenda to include a separate goal for child protection, with objectives tailored to different contexts and countries. No country is free from the scourge of violence, and child abuse and exploitation," said the experts. "If violence is not eradicated, development cannot be fully achieved." [...] "The safety of every child cannot be ignored.

Children deprived of family care at home, or when they are the head of a family, in institutions and on the street, often suffer from abuse, exploitation and neglect, as well as having to struggle to meet their basic needs. Children from stigmatized and minority groups are even more vulnerable to all kinds of violence. The post-2015 agenda should ensure that any call for stronger investment in social protection programmes should take into account basic services to help families care for and protect their children, prevent abuse and neglect and support children in their need for assistance and alternative care. Establishing and strengthening the programmes of child protection systems as inclusive, sustainable and appropriately funded and coordinated ways of protecting children, addressing the more specific needs of certain groups of children and adolescents, should be a common denominator. The post-2015 agenda should address inequalities that increase the risk for some children of experiencing abuse and exploitation, also naming the root causes and factors that give rise to these phenomena. The post-2015 agenda should ensure accountability by governments in relation to their obligation to protect children, through domestic processes and through regional and international mechanisms. The fight against corruption and impunity should be at the heart of these accountability mechanisms."

On 20 November 2013, Universal Children's Day, the five experts mentioned above emphasized the urgent need for local governments and the international community to allocate resources for the protection of children against any and all forms of violence. These financial, personal and material resources must address protection in all its dimensions, including emergencies in response to catastrophes and conflicts, recovery and rehabilitation, and monitoring by means of special indicators for child protection.

More specifically, and localized by region, in Latin America and the Caribbean the situation appears to be the following, according to data from UNICEF, ANDI and *Save the Children - Sweden*: The report by the Inter-American Commission on Human Rights (IACHR) indicates that only 24 countries in the world prohibit corporal punishment by law, and of these, only a few are members of the Organization of American States (OAS): Uruguay, Venezuela, Brazil and Costa Rica.

In its report on *The State of the World's Children 2007*, the United Nations Children's Fund, UNICEF, observes that every year 275 million children around the world are subjected to domestic violence and suffer the consequences of a turbulent family life. Different types of violence can be identified within the home; physical, when corporal punishment is resorted to; verbal and psychological, expressed through offensive terms, insults, humiliation, screaming and denigration; and sexual violence against children and adolescents, which consists in engaging in sexual behaviour, either through threats, physical assault or emotional blackmail.

According to *Save the Children - Sweden*, in most of the countries in Latin America, the magnitude of the problem of child abuse is not sufficiently visible. The statistics that describe physical violence against children are taken from partial sources of information, inasmuch as there are no reliable and disaggregated official data in any of these countries that quantify the various interventions of public and private institutions that deal with child and youth victims.

The effectiveness of corporal punishment declines over time and its level of severity must be systematically increased. Corporal punishment against children and adolescents can cause not only injuries, but permanent damage, and even lead to death. Extreme behaviour such as this constitutes child abuse, a different form of physical punishment. In the United States, in a review of 66 cases of child abuse, it was concluded

that most of the time, both abuse and maltreatment take place as *"an extension of disciplinary actions that at some point, and gradually, crossed the line separating authorized corporal punishment from unauthorized child abuse"*.

The Pan American Health Organization's World report on violence and health, published in 2003, investigated evidence that major diseases in adulthood – including ischaemic heart disease, cancer, chronic lung disease, irritable bowel syndrome and fibromyalgia – may be related to abuse experiences during childhood. In addition, in extreme cases, being beaten as a child can lead to even more serious health consequences, such as psychiatric disorders and suicidal behaviour.

According to a study conducted by Professor Murray Straus, of the University of New Hampshire, in the United States, after four years, children who have been punished physically show lower IQ scores compared to those who did not suffer this kind of punishment. In the youngest group, children who had not been beaten showed four additional points in their IQ scores than children who had been punished physically. In the group of children between the ages of 5 and 9, children who had not been beaten showed 2.8 more points in their IQ scores after four years, than those who had suffered corporal punishment.

A report prepared by researchers from the University of Michigan in the United States highlighted the fact that corporal punishment places children at risk and gives rise to mental health issues and anti-social behaviour. Corporal punishment does not improve children's behaviour, as it is commonly thought. On the contrary, the victims tend to lose their concentration in school and increase their chances of becoming aggressive, competitive and more likely to develop violent relationships in the future.

According to Márcia Oliveira, Programme Officer for Latin America and the Caribbean of *Save the Children - Sweden*, the subject of corporal punishment in Brazil has met with a great

deal of resistance. However, in 2005, support began to emerge from some local groups, probably as a reflection of the global movement which was beginning to take shape.

“Punitive violence in Brazil began with the slaves, and then with women. Women fought long and hard against it and no kind of aggression is now allowed, even within a relationship, especially after the Maria da Penha Act. Violence is even prohibited in the case of animals; care protocols are in place for circuses, a requirement in this regard. It is only in the case of children that physical violence continues to be allowed. We must overcome this stage in the same way, particularly as what is behind this practice is the myth of the validity of punishment with educational purposes”...

The Report on Corporal Punishment and Human Rights of Children and Adolescents, prepared by the Rapporteur on Rights of the Child of the Inter-American Commission on Human Rights of the Organization of American States (OAS), recognizing the gravity and seriousness of the practice of corporal punishment against children, produced a document in order to

“(...) recommend, to the member states, specific actions for making comprehensive progress toward protecting the human rights of children and adolescents.”

And includes measures aimed at the eradication of corporal punishment against children and adolescents. With regard to legislative measures, it is understood in the report that:

“By legislative measures intended to protect children from corporal punishment, the Commission means both the repeal of provisions that explicitly authorize the use of corporal punishment on children under the

age of 18, the elimination of the ‘corrective measures’ guidelines that are still a part of the regulations governing parental custody in many countries, and the adoption of provisions that explicitly prohibit corporal punishment.”

At the same time, the OAS Inter-American Court of Human Rights, in San José, Costa Rica, maintained that one of the obligations of the State to protect children against abuse includes the adoption of positive measures. In addition, the Court found that

“In accordance with Article 2 of the American Convention, the States have a positive obligation to adopt the necessary legislative measures to guarantee the enjoyment of the rights recognized by the Convention; even more so do they have the duty not to issue laws that disregard these rights or hinder their exercise, and to remove or amend those laws which have these effects.”

In the same vein, the Court has noted in several cases that the general obligation imposed by Article 2 of the American Convention implies the adoption of measures in two aspects: on the one hand, the suppression of rules and practices of any kind that violate the safeguards provided for in the Convention; on the other, the issuance of standards and the development of practices conducive to the observance of such safeguards. In addition, the adoption of these measures becomes necessary when there is evidence of practices contrary to the American Convention in any matter.

The OAS Commission notes with concern that even when there are laws in many countries in the region that protect children and adolescents against physical violence and abuse, such legislation does not ensure a sufficient level of protection that prevents children from becoming victims of corporal punishment. Thus, from a general perspective, the States

should protect absolutely the dignity and integrity of children and adolescents.

Nor is it possible to admit that the States should remain inactive in the face of the widespread social tolerance towards violence in general against children and adolescents and the permissive attitude towards corporal punishment.

It is imperative for the States to explicitly prohibit corporal punishment. For two reasons in particular: firstly, because this sheds light on the acknowledgement of corporal punishment

as a form of violence and a violation of human rights, which has an absolute effect on the behaviour of public officials. Secondly, because even though the purpose of this prohibition is not to criminalize the behaviour of parents in the private setting, it is important to recognize that the legislative prohibition constitutes a frame of reference for the performance of legal operators responsible for implementing domestic law, in order to ensure protection in the case of minors under the age of 18 who claim to be victims of punishment. In addition, the experience of other countries that have already undergone the process of combating the corporal punishment of children makes it possible to argue in favour of the need for an explicit ban on this form of violation of the human rights of children.

As regards our region, the IACHR has noted that nearly three years have passed since the presentation of the World Report on Violence against Children, which urged the States to prohibit torture and corporal punishment, and cruel and degrading treatment against children until 2009. Only a few of the Member States of the Organization of American States have adopted laws that explicitly prohibit such forms of violence against children and adolescents.

Similarly, the validity of the adoption of these legislative measures requires that the States provide guidance for their application, such as, for example, the dissemination of all of the legal norms and the implementation of political and institutional mechanisms to promote and protect the specific human rights of children.

Of course, we must – in our region in particular – promote the need for the urgent adoption of laws to prevent and combat violence, as we have maintained so far! However, we must go a little further and establish amongst ourselves an in-depth debate on the **legal and socio-political effectiveness** of these same laws, inasmuch as we have no interest in “dead laws”, devoid of effectiveness and efficacy; that is, laws that the

Wanderlino Nogueira Neto

Wanderlino Nogueira Neto - He was a member of the United Nations Committee on the Rights of the Child, with broad support in recognition of his career in defense of children's rights.

Law degree, specialized in criminology and forensic sexology. His areas of expertise included public international law, the relationship between law and technological innovation and Sexual and Reproductive Rights.

He works for the Defense of Brazil for Children International Section. He was Attorney General of the Public Ministry of the State of Bahia and professor at the Federal University of Bahia.



public refers to as “laws that do not go beyond the paper they are written on”.

In this regard, certain questions remain, which to me are central to our discussion on violence and legislative measures:

- *Why do laws that are recognized to be advanced and seek to regulate human relationships in the best possible way and at the same time attempt to act as a vector in the evolution of collective thought and practice, often give the impression of being “ineffective” (legal phenomenon) and/or “ineffectual” (metalegal phenomenon)?*

- *Why have many laws on comprehensive child protection (for example) in the Americas and the Caribbean given this false impression to large segments of public opinion, even decades after their enactment?*

Be that as it may, the flawed implementation or under-application of a law can lead its target recipients to think that the law is socially and ethically unsuitable, and as a result, and gradually, the law loses its political and institutional effectiveness and legal efficacy. For the purposes of this analysis and evaluation, we must consider that the political and institutional effectiveness of a law arises from:

- its actual capacity to cause a chain of consistent and satisfactory local regulatory realignments (state and municipal), with the issuance of specific laws and regulatory provisions, based on the general regulations of the Statute, for example.
- Its actual capacity to trigger an irreversible institutional realignment process, where the State machine, at federal, state and municipal levels, is brought into line with the new political and legal paradigm, with the

establishment and implementation/strengthening of services/activities and public programmes/projects responsible for meeting the basic needs of children and adolescents, through the promotion and defence of the relevant rights.

- Its actual capacity to cause an obvious improvement of public services catering to these needs and rights, resulting in qualified demand and public services.

In addition, in this analysis and evaluation of legislative measures for protection against all forms of violence against children (especially torture, abuse and corporal punishment and cruel and degrading treatment), we should consider that a law’s legal effectiveness arises from:

- its applicability in specific cases;
- its mandatory, enforceable and coercive nature;
- the imperative and demandable nature of the rights it recognizes, provides for and safeguards.

When Law has only been “formulated”, as the “expression of a value judgement”, it is not yet Law: it is entirely impotent; it is “deconstructed”. Law is what its specific production process makes of it. Law is effective in each of the actions to produce it, and becomes a reality in its application.

At the same time, laws carry within themselves the germ of political and institutional ineffectiveness and of legal ineffectualness when they lack, in the first place, social legitimacy. This occurs, for example, when these legal norms are bestowed, when Law is produced as an imposition, giving rise to anomie, resistance and lack of respect for the established legal standards; that is, the positive state law currently in force.

Similarly, laws inherently contain the germ of political and institutional ineffectiveness and legal ineffectualness when they simply establish programmatic principles, abstract concepts, and do not provide for instruments that would render their implementation operational (mechanisms and public spaces); that is, when they do not enable the development of a system to safeguard rights.

Regulatory texts are also the bearers of their own political and institutional ineffectiveness and legal ineffectualness when they contain, equally, the germ of an “overload”; that is, when the law brings more of the “outside world” within itself than it is capable of bearing. The “over-politicization and over-socialization of a legal norm” – an excess. Law does not exist in order to “create the outside world”, but to regulate social conduct as experienced in that world outside of itself, on the basis of a utopia of specific values.

In conclusion, we should recognize, at least, that we are now living in a time of paradigmatic transition: the social emancipation of disadvantaged social segments; among them, children and adolescents. This is an obvious and desirable aspiration, and is in the process of development. The struggle for human rights can be a valuable instrument for mediation and to counter hegemony. In this respect, we should establish a legal counter-hegemony on behalf of the interests, needs and wishes of children and adolescents, to become, on the basis of this, legally enforceable fundamental rights and freedoms.

More rights
for more people



we also
have rights

