



2008 Sixtieth Anniversary of Bice

**2009 Twentieth Anniversary of the
Convention on the Rights of the Child**

Position Paper
-
Latin America Region

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Tomorrow, which world for our children?

Position Paper of the Latin America Region

INTRODUCTION

This regional document reflects the Latin American social and historical context. It allows understanding different perceptions and trends at the eve of the twentieth anniversary of the Convention on the Rights of the Child adopted by the UN General Assembly and that all the countries of the region have ratified right after its entry into force.

First of all, in relation to the Latin American political and institutional situation, the Convention on the Rights of the Child represents a very important achievement for rights-holders (children and adolescents) and duties-holders (States parties to the Convention) as well as for different social and institutional actors such as families, churches, and civil society.

When the Convention entered into force, several peoples were still living under dictatorial regimes, characterized by systematic human rights violations or by armed conflicts affecting young generations. The Convention on the Rights of the Child was perceived as a factor for renewed hope in line with the principles of democratic life, including justice, freedom, and respect of human rights.

The ratification of the Convention reaffirmed States commitments to develop and redefine public policies to support children, young people, and families in order to guarantee the full and effective implementation of human rights.

Nevertheless, this historical period also coincides with the development of neo-liberal ideologies, which weaken States capability to respond adequately to large sectors of the population including children victims of extreme poverty, social marginalization, violence or discrimination. Very often, the payment of interests related to the external debt cut away the resources to invest in childhood public policies.

The entry into the third millennium cannot neglect the democratic commitments undertaken by States to be in line with this new deal embodied by the Convention. This instrument allows detecting both positive trends to be reinforced and negative ones to be more genuinely highlighted.

In spite of the cultural and ethnic diversities and different development levels, the Convention is now rooted in the Latin American context and has succeeded in reinforcing Latin American children (boys and girls) and adolescents' identity and integration.

REINFORCING REGIONAL TRENDS

1. Children and adolescents are more aware of their social and political rights

Despite the long way ahead of us, we can affirm that the adoption and the dissemination of the Convention have already raised children awareness in terms of their social and political rights.

This recognition progressively leads to consider that if children are rights-holders, consequently States have the obligation to respect and implement them. In addition, the responsibility of many other actors such as families, social organizations, religious institutions and international cooperation agencies is engaged as well.

While beforehand children aroused a sense of piety, charity and compassion, today they are generally considered – and in many cases thanks to the efforts directly made by children and adolescents - as an essential component of democracy and inclusive citizenship. Increasingly, childhood is considered as a social phenomenon and no more as the sum of individual cases to handle.

This collective progress encouraged civil society to support several activities in order to promote children and adolescents participation, and consider them protagonists of the changes and achievements of their community. However, the respect and the enhancement of cultural, geographical and social differences that characterize our peoples still need to be fully ensured.

a. Children and adolescents gradually acquire a new social conscience

In building a new social conscience, of which children and adolescents are also part, it should be underlined that their needs are indeed rights, and that they should be considered as actors. They are no more simply beneficiaries, targets or “clients” of assistance policies.

This new awareness should dissolve the current perception by which children and adolescents are negligible and that, therefore, they can be ignored. This dominating attitude has led to authoritarianism, pseudo-welfare, the trivialization of ill treatments and violence and the systematic suspicion about adolescents’ dangerousness, especially of those coming from poor areas.

This new social conscience vis-à-vis children means a revival of affection and love as elements of a new educational and social Eros. It also implies acknowledging that as children and adolescents live in a specific time and place, it is important to consider their generation, class, gender, ethnicity and cultural specificities.

For this reason, we especially focus on childhood and adolescence issues, not only because of their vulnerability, but also due to their capacity to offer a better understanding of their situation in the region.

In the same way, the attention paid to rural, indigenous, and Afro-descendent children and adolescents is increasing; in some countries, they constitute the absolute majority of the population. Making this young people visible implies knowing how they apprehend and practice their rights inside the family, at school, in a productive community, which is quite different from urban areas.

In both Andean and Amazonian countries, domestic laws implement in different and unequal ways the human rights of new rural and indigenous generations. On the other hand, international norms on native people constitute a precious contribution that children and adolescent organizations and different institutional and organizational coalitions should resolutely use, especially to face the « cultural massacre of which they are victims, the physical destruction of their forests, the exploitation of mineral resources, ... and the extermination of ethnic groups framing an irreversible human degradation¹ ».

b. A wide network of movements of and for children

In the region, during the last 20 years, numerous networks and movements of and for children have emerged and continue playing a crucial role in calling for the implementation of the CRC provisions and their consolidation in national legislations. These movements have contributed to build a favorable public opinion to children and adolescents issues. They have been one of their best allies as it happened during the Global March. These coalitions also had an impact on the elaboration, adoption and implementation of children and adolescents public policies based on a human rights approach.

Among the most recent strategic partners, we note the “Network of Masters in Law and Childhood Social Policies²” which effectively operates in seven countries of the region and that developed strong links with children and adolescence organizations. It has also contributed to the creation of a European network involving more than fifteen postdoctoral universities programs.

c. Another way to relating to adults

As the CRC leads us to a new understanding of childhood and adolescence, we should reexamine and modify both our own perceptions and the kind of relationship that we maintain with children and adolescents. Until we do not modify the underlining paradigms of the dominant “adultist” culture, we cannot speak of a new paradigm of childhood.

In our continent, children and adolescents have started to establish links with those adults who understand them and consider them as rights-holders. Such experiences foster democracy as they put into practice the principles of citizenship, and while reinforcing intergenerational relations, they make them less authoritarian.

¹ See **Heliana Brito F, Ma. Fátima Mendes Leal**, org., “As Crianças da Amazonia: Um futuro ameaçado”, Belem, 1990, Ass. De Universidades Amazonicas, UNAMAZ, p.413-421.

² <http://www.redmaestriasinfancia.net>

2. Children and adolescents claim an equitable distribution of wealth

a. Children participation and initiatives in participatory budgets

It is very important that, since the last decade, children and adolescence organizations have been associated to the decisions of public agencies responsible of sharing economic resources in relation to people's priority needs. The pioneer experiences in Barra Mansa (Brazil) and in Cotacachi (Ecuador) concerning the equitable management of local budgets are nowadays, repeated in other countries of the region.

Beyond promoting the acquisition of democratic mechanisms and educating citizens to have their voice heard, this practice gives children and adolescents public visibility, the opportunity to be listened by the authorities, and to co-decide on financial matters. Usually considered not relevant to children interests and capabilities, they open the way to corruption. Therefore, children and adolescents participation to such experiences is a way to increase transparency and directly monitor undertaken commitments.

In short, at the continent level, we observe children and adolescents effort in order not to be any more considered as insignificant within their family, at school and in the society. There are some evident and positive signs of their involvement in social, public and cultural fields. It is their fundamental contribution to the understanding of the human condition.

b. Creative fight against hunger

We are a region where organized and more aware children (boys and girls) wave a flag saying « No to Hunger » and claim food security.

Since the round-tables organized to fight against poverty and other similar initiatives - such as the marches against hunger organized by the People's Children Movement in Argentina – or the thousands of popular restaurants run by women and local inhabitants, the civic creativity of those who are mostly the children of hunger, food insecurity and food and health precariousness, is emerging.

Poor districts in Mexico, Argentina and Brazil oppose that corn, soy and other goods are devoted to the production of alternative energy to oil, thus deteriorating both people diet and the prices of basic products.

3. Children and adolescents protagonist participation: non discrimination

a. Organized children and adolescents set the basis for a new contract, which should better recognize them

In this new era where the CRC promotes children and adolescents' human rights, their claim to be recognized, respected and valued as rights-holders is strongly increasing. Throughout the continent, children and adolescents demand to be respectfully treated and call for the elimination of all forms of discrimination especially those affecting who lives in urban-popular districts, peasants, Afro-descendants as well as gender-related ones. Their right-based inspiration is motivated by the urgency to re-found social links in the

framework of new intergenerational relationships. This implies that the new social contract inspired by the CRC become a reality.

Undoubtedly, articles 12 to 15 of the Convention affirm that an essential element of this new social deal rests in the implementation of these rights, from the right to be listened and respected to the right to peacefully assembly.

b. Children participation is good for them and necessary for society

During the last 20 years, we have been witnessing increasing children participation. In Latin America, interesting experiences of children and adolescents organizations preceded the adoption of the CRC, such as « Children at work » in Peru, or the « National Movement of Street Children (Movimiento Nacional de Meninos e Meninas de Rua) in Brazil, “Children of Rag Ball (Pelota de Trapo) in Argentina, “Street-schools” (Callescuela) in Paraguay, “Moani” (Movimiento Apostolico para los Niños y Niñas) in Chili, or the Educational Councils and community based organizations, supported by an open Church.

In each country of the region, the implementation of the right to participation is an important factor in transforming dominant childhood cultures. A paradigm of children protagonist participation is developing within NGOs, children and adolescence organizations, parish groups, teachers, social workers, police officers, judges, researchers.

Therefore, children and adolescents not only constitute a social group, but their social recognition is linked to the implementation of their autonomy, their freedom of expression, dialogue, respect of the other and conscientious objection. Their strength and contribution in advancing society rest in their constant research of excellence and quality. Children learn to negotiate, they realize that not always they obtain what they claim, and despite being in minority, they keep working in accordance to what has been democratically decided.

Though differing in their nature, characteristics and methodology, such experiences show tangible achievements, that public policies should support and duly recognize.

c. Children and adolescents organizations operating at the continental level

Since several decades, children and adolescents organizations collaborate beyond domestic borders. Thanks to the CRC, which recognizes the right to assembly, their links have been reinforced throughout the continent. In addition, the development of new information technologies allowed intensifying their communications and information sharing generating a positive impact in their individual and collective development. In our region, we are assisting to the emergence of a new Latin American consciousness, event that could be defined as a globalization of children citizenship.

4. Harmonization of national laws with the CRC in view of the integral protection, recognition of rights and administration of a specialized justice

a. Protection, respect and restoration of children and adolescents rights

Since the CRC adoption and mindful of the commitments undertaken following its

ratification, almost all countries of the region have started to adapt their domestic legislation to the provisions contained in the Convention.

In many cases, these legal reforms have been achieved thanks to the participation of different social actors, namely children and adolescents who claimed the full application of their rights. Today, specific attention should be paid in monitoring the implementation of these new laws as well as the evolution of the old public assistance system.

If rights are violated, the CRC reaffirms their protection and restoration. On this basis, children and adolescence organizations wave as a new paradigm their protagonist participation to grant relevance to prevention, care, promotion, and protection initiatives as established by the CRC.

b. Research of new forms of adolescents' penal treatment

In most of the countries of the Southern hemisphere, the inefficiency of institutional responses to criminal acts due to their repressive nature has been underlined. This practice does not often respect the principle of justiciability especially in the case of adolescents alleged, accused or sentenced as perpetrators of criminal offences.

The principle of integral protection based on the best interests of the child, a founding aspect of the CRC and of international treaties dealing with juvenile justice, facilitated the review of existing procedures dealing with minors under the age of 18 in order to respect procedural rights and guarantees. In the region, we notice some progress such as the adoption of specific rules for children and adolescents demanding that deprivation of liberty is declared as a last resort. However, a lot remains to be done in the implementation and generalization of these achievements.

The notion of retributive justice appears as an alternative to the traditional approach dealing with legal offenses. It is a new approach aiming at guaranteeing the human rights of victims and of all those involved in the act. It is, therefore, necessary to understand it deeply and adequately apply to the juvenile justice system. In this endeavor, civil society should show affection, sensitivity and respect towards each young offender who has to be sanctioned.

c. Institutional systems of integral protection

Throughout the region, there are official institutional systems in charge of child and adolescents protection. Some of them are under the government responsibility via a particular Ministry; others are managed by decentralized or ad hoc bodies.

The most important achievement is the Statute of Children and Adolescents in Brazil (Estatuto das Crianças e Adolescentes) which regulates the participation of civil society to the protection system. Children and adolescents are encouraged to exercise their right to be consulted in accordance with Article 12 of the CRC. Such article is at the core of any children and adolescents global protection system³.

³ See **N.Liwski**, "Migraciones de niñas, niños y adolescentes bajo el enfoque de derechos" IIN, Report to the High Level Forum on Migration, Washington, DC, April 2008,p.3; see : **Alianza** para formalizar el "Sistema

5. Children and adolescents increasing awareness and participation in environmental protection

Latin America concentrates immense natural resources such as forests, biodiversity, and water. Today it faces the negative consequences on its ecological equilibrium due to development models responsible of climate change, dissolution of glaciers, extinction of many animal species, and the dramatic decrease of non-renewable resources.

In Amazonia, the Andes and in big towns, when children and adolescents claim their right to healthy life, they not only ask for healthy environmental conditions in their areas, lakes, rivers and isolated villages, but also for their communities and future generations' development. In all countries, through vibrant civic actions, they support environment. They call upon families, authorities, institutions operating in their environment so that inclusive participation allows reaching concrete achievements.

DISTURBING TRENDS IN THE REGION

1. Systematic State failures to children and adolescents human rights

A human rights violation occurs when official entities do not respond to their obligations. Though a human rights violation is well noticeable, States who hide behind a kind of "political realism" simultaneously simplifies it when they invoke insufficient economic resources as the reason not to meet their obligations.

Systematically unaccomplished obligations towards their citizens, namely children and adolescents, constitute a paradox as States have the primary responsibility to ensure the respect of the rule of law. This is particularly true when economic, social and cultural rights cannot be fully enjoyed⁴.

Unfortunately, a social imagery considering citizens as objects of charity depending on States goodwill persists; it means a citizen deprived of his/her rights, depending on the assistance offered by a benefactor State to be thanked if rights are granted. Child rights are often set aside while programs focused on specific needs or specific sectors (social compensation, emergency assistance, food distribution and so on) are privileged. Though necessary in some circumstances, these programs do not carry expected changes.

The inalienable character of the Convention should bind our countries to the spirit and content of this international treaty.

Nacional de Atención Integral al Niño y al Adolescente", Peru, 2007 : the formal recognition in the Child and Adolescents Code is not enough , specific laws and budget are necessary, p.45

⁴ See **Clodoveo Piazza**, "Discriminação" article for BICE-Latin America, which refers to political discrimination when the Constitution or existing laws are not implemented and to structural discrimination when clearly discriminatory customs and laws are applied.

2. States fail in implementing sustained policies to ensure the realization of the right to life, survival and development of new generations

a. Growing and scandalous inequalities: the denial of dignity

When we say that Latin America is the region with the highest rate of inequalities in the world, we must also point out that 20% of the richest population concentrates 47.7% of GDP while 20% of the poorest accounts for barely 4.6% of GDP. At the heart of this dramatic geography of injustice and inequity, children and adolescents in the poorest sectors of society are the largest group suffering from these inequalities. They suffer from a process of growing poverty, which weakens their integral development. The enjoyment of their rights is reduced as well. Children under the age of three are the most affected in the region⁵.

During the last twenty years, at a certain time, children's poverty conditions dramatically worsened. In the meantime, despite a little improvement, no radical changes occurred. Therefore, social inequality continues to be the main factor generating violence.

In this context, it is fair and encouraging to point out two key elements. On the one hand, the significant increase in enrolment in primary school and on the other, the decrease of infant mortality. Nevertheless, some contradictions go along with these two phenomena. In the education sector, quality education does not match the increasing rate of school attendance; consequently, the education system continues to be below expectations and international standards. In relation to infant mortality rate, despite favorable indicators assessing the regional average, deep inequalities continue to exist.

Confronted with this situation, we may wonder to what extent decisions taken by State and economic agents generate poverty and inequality in total impunity⁶.

b. Political democracies and social debt: repressed indignation

As States party to the Convention, our countries agreed to guarantee and implement the right to education in accordance with Articles 28 and 29 of the CRC. Likewise, within the framework of UNESCO, they are committed to increase the budget for education up to 6% of their GDP. So far, only two countries have achieved this goal. Insufficient investments in the educational sector combined with policies encouraging school attendance, have increased the number of children attending low quality primary schools and a high early dropout rate in the formal education cycle. Recent international reviews of the education system performance stressed the inadequacy of education throughout our region.

Only 45% of children enrolled continue their studies once they are 14. The result of this vicious circle highlights two characteristics: a) in a situation of extreme poverty, attendance

⁵ See **Diana González**, article for BICE-Latin America, in Uruguay although services for early childhood have expanded, much remains to be done.

⁶ **A. Cimadamore**, Preface to **S. Alvarez Leguizamón**, comp. "Trabajo y producción de la Pobreza en Latinoamérica y Caribe, estructuras, discursos y actores", CLACSO, 2005, p. 15

to school is reduced and b) early dropping out accelerates the process of social exclusion and negatively affects the development of citizenship.

The following data confirm this point: Ecuador affects 35% of its national budget to debt servicing, Nicaragua affects nearly 68 EUA / per capita in social investment. While in the region 35% of the population is poor, in Argentina, 69.2% children live in poverty (35,4% in extreme poverty); in Latin America and the Caribbean roughly 60% of children under the age of 12 and 50% of adolescents between 13 and 19 years live in poor conditions⁷.

c. New rich and an increasing poor majority: recourse to assistance and charity

Globalization has paradoxically generated wealth concentration in the traditional wealthy minority fringe of the population in our countries. The so-called "new rich", a middle class who benefited from the influx of financial capital in the industrial, agricultural, construction, services, finance and communication technologies are also taking advantage from globalization.

In most countries, having benefitted only to few sectors of the population, the ephemeral success in the fight against poverty has not managed to overcome precarious living conditions, and even less the increasing poverty level of historically excluded populations. Poverty is at the core of the discussions questioning the legitimacy of economic, political and social systems in Latin America and the Caribbean⁸. As any outcome, it is not accidental⁹.

In some countries, poverty-generated exclusion has increased and severely impacted the access to goods and services, condemning populations to meet their basic needs by their own means or through institutional assistance programs¹⁰.

d. Economically active unemployed or precariously employed population: a discouraging panorama

In most countries of the continent, official data show an increase in employment and / or self-employment, including in the agricultural sector and the mining industry, but access to employment is almost a luxury and the predictability of its future trend remains an enigma¹¹.

⁷ See : **UN Committee on the Rights of the Child**, 2005 ; **Committee on the Rights of the Child**, 2002 ; **UDAPE**, 2005 ; for Uruguay, **INS**, 2006 : 54,5% of children under the age of 5 were poor ; **Mariana del Aguila**, document BICE-AL, quotation **TACRO** of UNICEF.

⁸ **Ibid**, p.13 at the beginning of the twenty-first century, 44% of the regional population, namely over 220 million people lived in poverty and more than 19% in extreme poverty, see p.9.

⁹ **Julio C. Neffa**, "Pobreza y producción de la pobreza en Latinoamérica y el Caribe", S. Alvarez L, op.cit, pp. 193 SS.

¹⁰ See **Suzanne Duryea**, "Exclusion and modern forms of programs implementation" in the 2008 Report, "Who are those outside?" New models of exclusion in Latin America and the Caribbean, IDB, p.207-214.

¹¹ **A. Cimadamore**, op.cit, p.17 highlights that in Argentina, Colombia, Panama, Venezuela, the Dominican Republic and Uruguay, urban unemployment exceeded 15% in the early twenty-first century and the lack of employment has worsened compared to the Nineties. According to **A. Concha-E**, op. cit p. 100, in Uruguay, the official unemployment rate is decreasing together with job insecurity and the decrease of public employment in both relative and absolute terms.

At the same time, temporary and precarious employment become the reality considering that the average age to find a decent job is approximately 40 years and that, although legally admitted, juvenile labor favors overexploitation¹². As for micro-enterprises or family businesses, they offer significant job opportunities, but do not guarantee access to health, retirement or other social benefits; in addition corporate or trade unions rarely exist in this sector.

This situation contributes to increasing migration to the North, where despite difficult living conditions, it is possible to receive a decent salary and to send remittances to support family members at home¹³. According to the World Bank, remittances from Latin Americans working abroad largely exceed the financial support that the region receives from international cooperation programs.

3. States are primarily responsible of children and adolescents discrimination, forced migration and denial of citizenship

a. Significant exportation of “human capital”: damages within the family

During the last four decades, Latin America generated an uninterrupted flow of permanent or temporary migrants. Such a multidimensional process leads to the loss of human and social capital and has serious repercussions on migrants’ families and their children.

During the migration process, some children are separated from their parents due to the circumstances or by an official decision; others who were born outside their country are integrated in the social system of the destination country while their parents are deported because they are in an irregular situation. In addition, some other children are abandoned in their own country when their parents migrate.

It is estimated that half of the 900 000 Nicaraguan migrants left their country without their children and that 77% of them live in deep sorrow¹⁴. The most painful aspect of economic migration is the sacrifice endured by peoples who are forced to abandon their spouses and / or children for long periods, and go through a difficult social integration process in the country of destination. This also happens when migration occurs within the different Latin American countries.

While financial capital holders and large corporations receive facilitations and favorable tariffs conditions, people are forced to overcome many obstacles in order to survive. For example, the number of young Central American unaccompanied migrants is increasing. In Mexico, out of ten children who leave their country, six leave it alone and each year, 50000 children and adolescents are repatriated; the majority of them travel alone.

¹² See **Gustavo Marquez, Carmen Pagés-Serra**, "Bad jobs, low wages and exclusion" Report 2008, "Who are those outside?", IDB, p.77-108

¹³ Between Ecuador and Peru, an estimated 7 million migrants live outside their country.

¹⁴ See **N. Liwski**, op.cit, p.1 and p.5; and **J.C. E. Soler, Y.Y. G. Serrudo**, "Codevelopment and Migration. Shared Opportunities", Cuarto Intermedio Journal No. 84 Cochabamba-Bolivia, August 2007.

In these situations, children and adolescents are the most vulnerable and exposed to gender and domestic violence¹⁵. The right to family reunification is not implemented; and the process for obtaining a visa is usually humiliating in embassies and consulates.

The nature of forced migration is an expression of the violation of the "right not to migrate". Nowadays, the option to develop fully in one's homeland is denied to millions of Latin Americans and Caribbean. Major political promises – repeated decade after decade and always unaccomplished - ensuring equal opportunities, are not yet a viable alternative to seeking a "promised land"¹⁶ The region is unequivocally exporting human capital. This situation entails new legislative, assistance, services, and employment measures. In addition, States relationships should facilitate a better understanding so that borders are not any longer synonymous of discrimination walls.

b. The paradigm of dangerous adolescents

Adolescents submitted to devastating processes of social exclusion, are forced to live this important and complex stage of their life in conditions denying their rights. They are systematically exposed to repressive and stigmatizing cultures.

Particularly, in areas affected by poverty and misery, a young person is often discriminated and associated hastily to social violence. When society stands against insecurity, dissuasive solutions are proposed, most of them aiming at strengthening penal norms, such as reducing the age of criminal responsibility. For example, the case of Panama is paradigmatic as death penalty is applied while the bill was narrowly rejected with two votes against.

This tough and violent panorama directly affects adolescents' exercise of their citizenship. Societies are "disaffiliated", adolescents are deprived of their filial and fraternal condition. This explains why Latin American countries and societies live with the specter of "irregular situation" when addressing adolescence and therefore it is urgent to contain repression¹⁷. Poverty criminalization carries its own sanction.

c. Growing intergenerational misunderstandings affect coexistence

The majority of our countries experiments a profound transformation of their demographic pyramid due to the increase in life expectancy. This situation carries new challenges for social policies, and new priorities in terms of services, citizen participation as well as for the maximization of experiences, accumulated knowledge, and expertise, which constitute an asset that cannot be neglected.

At the same time, some behaviors affecting intergenerational relationships develop as well. In our societies, different perceptions of the world and diverse aspirations coexist,

¹⁵ **Ibid**, p. 6; see **M.I. Peñaloza**, article for BICE-Latin America, Forced migration, 2008, 4 pages.

¹⁶ **N. Liwski**, op.cit, pl-2

¹⁷ "El acecho de la situación irregular", very powerful expression by **Carlos E. Uriarte** "Control Institucional de la Niñez Adolescencia", Montevideo, 1999, p. SS 342 and p. 338-339, See also: **JA López**, article for BICE-Latin America: "Looking back on the implementation of the CRC in relation to juvenile offenders", 2008, 7 pages.

and take the form of personal, family, or community projects. These ones do not always facilitate the fluidity of communication, openness and respect for other ways of thinking and doing despite being essential, although insufficient, conditions for a generation to understand previous generations and those to come.

Language used by new generations illustrates the change of time and reveals the challenges of communication. Disagreements are rooted in mutual prejudices, the different sense and meaning attributed to values such as respect, recognition and complementarities. Sentences like "the elderly already left" or "young people go to the abyss; they are disheveled" show that intergenerational gaps tend to widen. We witness the loss of some values, mutual disqualification and underestimation between generations. Given the insecurity of the labor market, adults act collectively and try to protect their interests, particularly around their job. Adverse effects happen on the verge of generational equity. Equity does not depend on the degree of social responsibility, but, on the contrary, is related to the recognition of capacities and rights to gain self-sustainability and the option of discussing with other generations.¹⁸

4. States systematically fail to their main obligation: to ensure the right to protection in all circumstances

a. Lack of social protection for the poor

In most of the countries of our region, social security is not universalized, thus the majority of the population lives without social coverage¹⁹. Only a minority can access short-term (medical care) and long term (retirement) benefits. In recent decades, the Chilean experience favored the legal proliferation of insurance pension funds. For example, in Peru, they count more than two million members, while social security benefits in the field of health are weakening. In addition, in some countries, private health insurances considerably develop, but remain inaccessible to the majority.

Low social protection standards are an indicator of low human development. Therefore, children, adolescents and youth constitute the most vulnerable sector of the population. Poor families are especially affected by any type of disease due to the difficult access to public health system and the cost of drugs. Recent election promises such as "Health for All", "Water for All", "Social Security for All" remain "unaccomplished" in many countries of our region.

b. States "authorize" multiple forms of violence against the most vulnerable: children and adolescents

Social acceptance of violence continues considering as normal and inevitable physical, sexual and psychological violence, as it does not leave a visible trace. Every year, more than 6 million children and adolescents suffer from serious abuses; about 2 million are victims of sexual violence for commercial purposes, while 80000 die because of domestic abuse.

¹⁸ *Ibidem*, passim.

¹⁹ Both the **ILO** in 2003 and the **CEPAL** in 2004, reported that less than half of the population benefits of social security, see A. **Cimadamore**, op.cit, p.17

The most widespread forms of violence occur within the family circle²⁰ where women and children continue to be the most affected. Children and adolescents abandonment of their homes to go living in the street is closely linked to domestic violence. In our region, it is estimated that there are over one million street children.

Our countries, therefore, implicitly "allow" different manifestations of violence affecting children and adolescents as, insofar, they are not legally prohibited²¹. With the exception of Uruguay where physical violence is criminalized and of Ecuador, the Dominican Republic, Honduras, Venezuela and Haiti, where any physical or corporal punishment at school is expressly condemned, 58% of Latin American and Caribbean students are not protected against corporal punishment occurring in schools²².

Although recently, in some countries such as Peru, Nicaragua, El Salvador and Guatemala, internal armed violence decreased, in others like Colombia or Haiti, this scourge intensified. Not a single country of the hemisphere has been spared from social and political violence²³ due to growing dissatisfaction, the struggle of some sectors of the population to improve wages, the enhancement of regional autonomies, and the respect of human rights, including the right to land, water or environmental protection.

In addition, mafias and organized crime are issues of concern as they generate strong citizen insecurity, particularly in the most populous urban areas. The abduction of children, including newborns and adolescents, is part of this reality.

However, one of the main sources of violence is the exclusion and systematic stigmatization endured by entire populations, which, on the other hand, generates street violence, the creation of gangs and the strengthening of socially unacceptable organizations such as "maras". In Central America,²⁴ more than 30 000 young people belong to them.

Despite significant progress in punishing those responsible of low intensity warfare, disappearances and other atrocities, in many countries, namely El Salvador, Guatemala, Nicaragua, Chile, Argentina and Peru, national reconciliation processes are not completed and the meaningless signals in favor of victims of State violence constitute an ongoing ethical, human and political debt.

c. Disturbing indicators of corruption and drug trafficking: undermining childhood

In the Andean region, the production of the coca leaf is at the heart of the conflict, its traditional and ancestral use has been demonized and considered the cause of drug trafficking while its qualities have been disregarded.

Paradoxically, the heralds campaigning for the eradication of coca cultivation are those who, at the same time, are actively engaged in international cartels. Bolivia, Peru, Ecuador

²⁰ **Paulo S. Pinheiro**, op. cit., paragraphs 38-47

²¹ **Paulo S. Pinheiro**, United Nations Study on Violence against Children, p.5. paragraphs 1 and 25.

²² See **Mónica Espósito**, Article BICE-Latin America, 2008

²³ **A. Concha-Eastman**, "The problem of violence in Latin America," Minutes of the Latin American Seminar, Violence in Latin America, Lima, 2004, p.43-50.

²⁴ **A. Concha-Eastman**, op.cit p.47.

and Colombia are internationally suspected or accused of fostering criminality and cocaine traffic around the world.

The link between money generated from drug trafficking and social corruption is undeniable²⁵. Corruption has an increasingly high place in daily social practices, commercial transactions, the acquisition of ammunitions, in public and private tenders, in State institutions and civil society organizations. Yet, it is in the poorest and most marginalized sectors (including those of children and adolescents) where the damages caused by the extensive and intensive dissemination of drugs are more visible.

New patterns calling upon citizen monitoring, fiscal transparency especially in the use of public funds, the establishment of ethical bodies, independent courts such as the Peoples Tribunals are the result of the increased awareness about the damages caused at the national level by corruption and the need to combat them.

As a synthesis:

Accordingly to the overview of the regional trends 20 years after the entry into force of the Convention, it is not yet possible to fully affirm that new generations of children will experience short and medium-term scenarios with less exclusion, and better opportunities to combat discrimination and racism, effective eradication of child sexual exploitation and economic and physical violence, appropriately funded political and social programs for the most needy.

Violations, that is to say the non-fulfillment of commitments assumed by States upon their ratification of the Convention, contribute to the sense of hopelessness that followed its adoption. Despite its 20 years existence, much still needs to be accomplished so that new Latin American and Caribbean generations can manage to overcome the spiritual void left by adults.

Life projects to be fruitful, both at the individual and collective level, call for ethical and moral renewal and the recognition of each person as a transcendent being whose life is worth living. What is at stake is the dignity, for which children and adolescents of the region continue to make their voices heard. While this happens, **hope is still alive**.

PROPOSALS FOR THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD

- 1) To dispose of adequate intangible resources in order to ensure the implementation of economic, social and cultural rights of children and adolescents.
- 2) To ensure that legislative reforms are consistent with the principles and provisions contained in the Convention and, in particular that necessary measures be adopted in

²⁵ See, **Eduardo Gamarra**, "Democracy and drugs in Latin America and the Caribbean, UNDP, 2004, p.245-257, which reaffirms: " Few countries in the region were able to avoid the link between democracy and illegal economy ", p.248), see E. **Francisco Thoumi**, "Notes on corruption and illicit drugs", UNDP, op. p.259-264. See, in addition, the UN Study on Violence against Children. Report on the results of the Regional Consultation for the Caribbean, Port Spain, 2005

order to implement public policies, while recognizing the contribution of civil society and churches namely with regard to programs and services planning, monitoring and evaluation.

3) To determine National Action Plans with the widest possible support and the full participation of organizations of children and adolescents. Resources should be allocated to national development plans and strategies in view of reducing poverty and inequality. Plans must include specific goals, deadlines and concrete objectives agreed with and monitored by civil society and ad hoc jurisdictions.

4) Forced migration due to poverty and inequality, human rights violations and violence affecting thousands of children, call on States to establish global protection measures based on child rights, particularly in the case of unaccompanied children, and reaffirm family reunification mechanisms.

5) Due to the deliberate abandonment of public policies for youth, the poor and the marginalized, to implement activities promoting the development of citizenship, preventing the stigma and the link of juvenile groups with urban insecurity, while overcoming repressive trends namely against adolescents in conflict with the law.

6) As for intergenerational divergences, States should promote comprehensive policies in view of creating new or renewed communication and interaction processed based on the right of each child to be listened and consulted in any decision affecting him/her.

7) To end violence against children is a State unavoidable obligation. The implementation of the recommendations of the Global Study on Violence against Children adopted by the United Nations General Assembly, including a gender mainstreaming approach, must be incorporated as a priority matter in official agendas. Monitoring mechanisms inter alia by civil society and churches should be granted and impunity in its various forms should be fought.

8) To ensure universal social protection is an inalienable State responsibility. It must be grounded on the principles of accessibility, coverage, quality and efficiency in services, and give priority to poor and excluded children.

9) The right to development and survival is closely linked to the family environment and this latter to the capacity of generating fair incomes for mothers, fathers or child tutors. It is fundamental to move from assistance policies and their consecutive dependences to policies promoting decent employment and different forms of associations or unions.

10) Nowadays, States must be required to act transparently in their fight against organized crime and corruption. Latin American children have the right to grow up free from this scourge and its perverse forms of submission and slavery.

Expert Group Latin America

- Father Alejandro Cussianovich – Peru

Catholic priest. Teacher. Among his functions we can highlight the following ones: since 1964 he has been working with Juventud Obrera Cristiana; he participates in the CEPAL Network on Human Rights and Peace Education, Peru ; Technical Advisor of the inter-sectorial Sub-Commission which drafted the National Action Plan for Childhood 1992-1995, Ministry of the Presidency ; member of the team of the Training Institute for Educators of Young People, Adolescents and Working Children in Latin America and the Caribbean (IFEJANT) ; member of the Educational Forum of Peru; collaborator of the National Movement of Organized Working Children and Adolescents of Peru (MNATSOP); consultant of the Working Group entrusted to review the Unified Text of the Code on Childhood and Adolescence, Commission of Women, Human Development and Sport, Parliament of the Republic; Professor of Social Politics and Promotion of Childhood at the National University of St Marc Peru. Among his publications, we can mention: Working Boys and Girls: Protagonist and Social Role, IFEJANT 1997-1998. Modules I and II ; Participation as Best Interest of the Child, 2000 ; History of the Social Thought on Childhood UNMSM, August 2003 ; Essay on Childhood – Right-holders and Protagonists 2006 ; Learning Human Condition – Essay on the Pedagogy of Tenderness, 2007.

- Marian de Del Aguila - Guatemala

Graduated in social work. Among her functions we can highlight the following ones: Executive Secretary of the Institutional Federation for the Promotion of the Rights of the Child, CIPRODENI; responsible of the Plan for the Prevention and the Assistance to Ill Treatment and Sexual Abuse against Children and Adolescents in Guatemala; as CIPRODENI representative, she participated in the Sub regional Federation of Mexico, Central America, Panama and the Dominican Republic on the Rights of the Child ; cofounder and member of the Board of Directors of the Association for the Elimination of Prostitution, Pornography, Sexual Tourism and Trafficking of Children and Adolescents in Guatemala ; in charge of the coordination and implementation of the Project «Poder crecer» in Guatemala, coordinator of the Diagnosis on the Situation of the Rights of the Child in Guatemala for Save the Children. As a consultant: she conducts research for the Project «Poder crecer» on the implementation of the Convention on the Rights of the Child (CRC) in the 11 countries where the organizations part to the project are present; responsible of the coordination of drafting the II and III periodic reports on the implementation of the CRC in Guatemala.

- Mónica Espósito – Chili

Sociologist, Catholic University of Chili. Graduated in family mediation, Carlos Casanueva Institute, Santiago, and Social Management, Inter American Bank for Development, Washington, DC. Among her functions, we can highlight the following ones: Social Director of the Municipalities of Puerto Montt and Machalí; Regional Director VI Region, National Service for Minors, a governmental body entrusted to implement programs for children whose rights have been violated; Regional Metropolitan Director of the National Service for Minors, Director Social Programs, Hogar de Cristo, Director of the Development and Studies Unit, Hogar de Cristo; Family Mediator at the Court for domestic affairs defending the interests and the rights of the child. Member of the Board of five not for profit organizations that develop social programs for children whose rights have been violated.

- Norberto Liwski – Argentina

Dr. Norberto Liwski – Doctor, Social Pediatrician. From 2003 to 2007, Dr Liwski has been Vice President of the UN Committee on the Rights of the Child. Among his numerous functions we can highlight the following ones: Expert at the Inter American Institute for Children and Adolescents, a specialized body of the Organization of American States (OAS); President of the International Association of Humanitarian Medicine; President of Defense for Children International – Argentina Section; President of the Committee for the Defense of Health, Professional Ethics and Human Rights ; former Deputy Secretary of Childhood, Family and Human Development, Buenos Aires province ; former President of the National Council of Childhood, Adolescence and Family ; Special Advisor to the General Direction of Culture and Education in Buenos Aires. Among his activities in the field of education, we can mention : Director of the post grade program on “Adolescence and Citizenship : Juvenile Mediation, a Tool for the Exercise of Rights”, National

University of St. Martin and Director of the Updated Program on Adolescence and Citizenship, Faculty of Law, University of Buenos Aires.

▪ Father José Antonio López - Ecuador

Religious. Tertiary Capuchin priest. Teacher specialized in re-educational pedagogy. At present, he is the President of the Tertiary Capuchins of Ecuador and Director of OPAN (Pastoral Bureau for the Child and the Adolescent). He has 53 years of experience as adolescents' educator in Colombia, Italy and Ecuador and as educators' trainer. In Quito, he opened the Juvenile Orientation Center « Virgilio Guerrero » which includes the socio-educational project of a therapeutic community for the integral development and the vocational training of adolescents in conflict with the law. He tells that his greatest achievement is to continue to be passionate about his mission, that his greatest difficulty is to have to waste time in bureaucratic tasks and that his ideal, as long as he lives, is to serve because « an adolescent in difficulty is a call of Love ».

▪ María Isabel Peñaloza - Bolivia

Social worker, graduated at the University of St. Andres (La Paz), she started her professional career in 1975 in a Center of observation and diagnosis of children and adolescents and, since then, an important part of her life is dedicated to the defense and the promotion of their rights. She performed executive and managerial functions in governmental bodies for child and adolescence protection and, in this context, she moved from the idea of minors in an irregular situation as object of protection / repression to their recognition as human beings with justiciable rights and responsibilities. She is the Executive Director of Defense for Children International – Bolivia section, and represents her organization in national and international meetings. She deserves a special consideration for her active participation, together with other institutions and organizations of children and adolescents, to initiatives aiming at inscribing their human rights in the Constitution. She has been a member of the team that drafted the proposal to introduce children and adolescents' viewpoint in the new political Constitution.

▪ Father Clodoveo Piazza, s.j. - Brazil

Born in Milan, Italy in a family of industrialists. Once obtained his degree in Economics and Business at the Catholic University, he went on a pilgrimage to Lourdes; on his way back he decided to become a Jesuit. He then left for Brazil as a missionary and joined the Organization of Fraternal Aid (OFA) located in one of the poorest and most dangerous areas of Salvador de Bahia. Father Clodoveo transformed OFA from a simple orphanage into an extraordinary project that the Inter-American Bank of Development recognized as the most advanced development project for childhood and adolescence in South America. He has been Secretary of Bahia State related to the Ministry to Combat Poverty and Social Inequalities. The World Bank has considered the Bahia State's programs a model and invited him to present them in Shanghai, China during a world conference. He has been a member of the Federal Council for the Defense of the Rights of the Child and the Adolescents in Brasília. He has participated in drafting the Statutes of Childhood and Adolescence. He is one of the coordinators of the Jesuits' social section for Latin America. He has been Bice Vice President.

▪ Diana González Perrett - Uruguay

Since the last 20 years, she has been working with children and adolescents. She is involved in situations of great social vulnerability by intense participation. As a lawyer, she advises public and private institutions as well as children and adolescents about their rights. She focuses on issues related to public policies on childhood and adolescence. She works with organizations such as Youth for Christ, Citizen Childhood Adolescence and Bice (Voces Project), with State bodies such as the legislative, the Institute of the Child and the Adolescent of Uruguay and with the Inter American Institute for Children and Adolescents among others. She is conducting research on sexual and domestic violence, foster families, adoption/sale, deinstitutionalization, etc. taking into account a right-based approach and a gender perspective. Among her publications, we can mention Penal Norms for the Protection and Restitution of Rights in relation to Sexual Violence against Children and Adolescents; Comparative Legislation in 11 South American countries; Normative Framework on Human Trafficking for Child Sexual Exploitation and Child Pornography in Mercosur, Bolivia and Chili, Ed. Montevideo 2004.