

**BASIC PROTOTYPE**

**NATIONAL CHILD  
SYSTEM**

*Inter.-American Children's Institute*

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## TABLE OF CONTENTS

<b>PREFACE</b> .....	1
<b>CHAPTER I:</b>	
<b>INTRODUCTION</b> .....	5
1. Background .....	5
2. Justification.....	6
2.1. Lack of an integral approach .....	6
2.2. The child situation requires integral services ....	7
2.3. The need for a model or Prototype .....	8
3. Regional context .....	9
3.1. Developments and unresolved matters .....	9
3.2. The crisis in the Region .....	10
3.3. Regional strengths .....	11
<b>CHAPTER II:</b>	
<b>SET OF GUIDING PRINCIPLES</b> .....	13
1. Principles of the National Child System .....	13
1.1. The rights of boys, girls and adolescents are Human Rights .....	13
1.2. Boys, girls and adolescents are rightholders .....	14
1.3. The best interests of the child as a guiding principle	15
1.4. The integral development of boys and .....	16
1.5. Universality.....	17
1.6. The respect of national diversity .....	18
1.7. A professional management .....	19

<b>CHAPTER III:</b>	
<b>OBJECTIVES OF THE NCS BASIC PROTOTYPE .....</b>	<b>21</b>
1. General Purpose .....	21
2. Specific Objectives .....	21
<b>CHAPTER IV:</b>	
<b>LOGIC DEVELOPMENT OF THE NATIONAL</b>	
<b>CHILD SYSTEM.....</b>	<b>23</b>
1. Protection Sub-systems.....	25
1.1. Legal Protection Sub-system .....	25
1.2. Judicial Protection Sub-system .....	27
1.3. Social Protection Sub-system .....	29
1.3.1. The Social Protection Sub-system envisages two types	
of public child policies.....	29
1.3.2. Parties involved in the Social Protection Sub-system.	31
2. Coordination among Protection Sub-systems .....	35
2.1. Overall System coordination.....	35
2.2. The Role of the Protection Body in the coordination	
of the System .....	37
<b>CHAPTER V:</b>	
<b>ORGANIC STRUCTURE OF THE NATIONAL</b>	
<b>CHILD SYSTEM.....</b>	<b>39</b>
Table No 1   Organization chart.....	41
Table No 2   Sub-system general logic frame .....	43
Table No 3   Legal Protection Sub-system .....	45
Table No 4   Judicial Protection Sub-system .....	47
Table No 5   Social Protection Sub-system: Universal public	
policies - Universal services .....	49
Table No 6   Social Protection Sub-system: Targeted Policies	
Targeted services. Coordinating role of the Protection Entity or	
Body.....	51
Table No 7   Social Protection Sub-system: Targeted public	
policies - Targeted services .....	53
Table No 8   Social Protection Sub-system: flow of targeted	
intervention.....	55
Table No 9   Social Protection Sub-system:	

Sectorial targeting committees .....	57
Table No 10 Logic framework of a decentralized organic Structure.....	59
<b>CHAPTER VI:</b>	
<b>THE PROTECTION BODY AND ITS COMPONENTS .....</b>	<b>61</b>
A. Admission component .....	61
B. Prevention component.....	62
C. Special Protection component .....	65
D. Care component for youth in conflict with the law	68
<b>CHAPTER VII:</b>	
<b>INFORMATION SYSTEMS FOR MONITORING RIGHTS AND MANAGING THE NCS .....</b>	<b>71</b>
Table No 11 Information Systems .....	73
<b>CHAPTER VIII:</b>	
<b>CONCLUSIONS.....</b>	<b>75</b>

## **PREFACE**

As from 1985, I have been permanently related to the child area, either holding responsibilities in the civil society, in the State, or in international organizations.

In my capacity as Chair of the National Child Institute of Uruguay (1995-2000), I had the privilege of being surrounded by other high officials responsible for child issues, as well as by top level technicians who, according to their respective roles or specializations, accepted to face the challenge of joining a management team, without any ideological or political consideration and unselfishly sharing their science and expertise to confront in a creative manner the hard task of finding adequate responses to multiple problems of extreme human complexity that were daily affecting boys, girls, or youth.

When I was entrusted to head the Director General's Office of the Inter-American Children's Institute, I understood that it was time to give back to all these people, with whom I feel in debt, as well as to all those who work at a professional level on child-related issues throughout the Continent, the systematized and structured effort of an archetypal National Child System, where the rich case studies represented by the situations undergone by so many boys, girls and youth in our countries could be inserted within structures envisaged for their care, with the respect they deserve as full rightholders.

During the presentation of the 2000-2004 Strategic Plan, warmly adopted by the Directing Council of the IIN, I committed myself to give that effort back by providing, as a preview, a preliminary scheme of what we understood should be the organic structure of a National Child System, in the framework of which it would be possible to work with a scientific approach for the benefit of children in the Region.

Today, after several months of analysis and sharing discussions, it was finally possible to generate a product that we consider to be unprecedented. The product that we are hereby making available to you all: representatives to the Directing Council of the IIN, governments, heads of child protection bodies, lawmakers, officials of the Judiciary, academicians, non governmental organizations.

This is an open and flexible proposal, although based on a strictly technical foundation that we expect will give rise to various reflections, debates and actions at national level, while also enriching the compared regional analysis.

We are circulating this product with the awareness that there is still an unresolved matter, as mentioned during the Consultative Meeting: how would it be possible to implement the actual participation of children so that their voice may be listened, undistorted and unconditioned, on those issues that most certainly concern them? The challenge of providing them with an opportunity to state their views is open at the level of the various national processes that may arise. On our side, we reiterate the willing and the commitment to disseminate in the countries in the Region those views, contributions and suggestions resulting from opening to boys, girls and adolescents the debate on the contents of this document.

Finally, I thank the representatives to the Directing Council for their kind support and guiding contributions; the technical staff of the IIN for becoming involved in this proposal with conviction, enthusiasm and creativeness; the external consultants from Costa Rica, Chile and Uruguay, who were joint authors of this proposal, for having generously shared their expertise and painstakingly searched for the consensus required for

reaching higher goals for the benefit of children; the representatives of the countries, who actively participated in the Consultative Meeting, and all the IIN staff who, in an often anonymous manner, carried out an essential work of support, without which this product would not be presently available.

We intend to keep sharing, with high technical precision, this path of ongoing search and commitment towards the construction of a suitable **system** for the effective preservation and development of **all the Rights for all the girls and boys**.

Alejandro Bonasso  
**DIRECTOR GENERAL**

## **CHAPTER I INTRODUCTION**

### **1. BACKGROUND**

The 2000-2004 Strategic Plan of the Inter-American Children's Institute (IIN), is the core of the current institutional action, in both the technical and political areas. The Plan's foundation was conceived from the perspective of the rights of children, while trying to promote the decentralization of IIN activities, to enhance the presence of child and family-related issues in the political fora in the Region, the decisive incorporation of civil society to the hemispheric commitment on behalf of children, the professional approach of all aspects related to children and adolescents, and the participation of children themselves by providing them the opportunity to be listened on any matters of their concern.

In operational terms, the Plan fosters the generation of high technical and political impact strategic products, which should become a model of reference for the management of child affairs.

Within this context, the need was detected to develop a Basic Prototype that was called NATIONAL CHILD SYSTEM (NCS), for the purpose of serving the countries as a guiding and organizing framework on the actions pursued by the State and the civil society on behalf of children.

The "National Child System" Basic Prototype consists of a systematization resulting from a long process of analysis and reflection that started in June 2000, when a Strategic Plan that already included the initial concepts and features of the NCS was submitted to the Directing Council. Throughout 2001 and 2002, and by means of a long and enriching work that involved professionals from the IIN headquarters and Consultants from various countries in the region, a draft of the Basic Prototype was prepared and presented, as a technical consultation, to the Representatives to the IIN

Directing Council who were accompanied by subject-matter experts; they concluded that this represented a significant input to the integral protection of children in the continent, and provided their contributions and comments on the document which were later included in its final version.<sup>1</sup>

The final product of the above mentioned process, a National Child System model is presented below. It does not account for the actual conditions of any particular country, but it consists of an instrument for addressing, diagnosing and planning on the basis of existing national systems, with their own structures, policies, programs, authorities, institutions and community, on all issues related to the situation of children in each country.

The National Child System, based on the paradigm of the Convention on the Rights of the Child, conceives the child as a rightholder, who deserves an integral protection under all circumstances in order to be able to grow and develop as a human being. From its design stage, it consists of an organic participation scheme that envisages ONE single child policy, while also admitting a programmatic diversity, that is, unity in diversity, for the purpose of avoiding any boy or girls in our societies to be excluded from the exercise of the rights he/she is entitled to as an individual and a citizen.

## **2. JUSTIFICATION**

**2.1. Lack of an integral approach.** In most countries, the level of child services is linked to universal social policies that address the need for health, education, housing and social security from a sectoral viewpoint. In addition to such sectoral approach, other Institutions and Ministries with more specialized assignments have been created in the last few decades, in an attempt to address child specific and exclusive needs. Thus, for example, there are organizations dealing with youth, women, preschool

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<sup>1</sup> The Technical Consultative Meeting was held in Montevideo, Uruguay on December 6-7, 2002, under the title "Designing an Intervention Strategy", and counted on the participation of: Argentina, Canada, Colombia, Chile, Mexico, Paraguay, Peru, the Dominican Republic, the United States of America, Uruguay and Venezuela.

education, sports and recreation, children at risk or whose rights have been violated, and others.

In general, experience indicates that in most cases such Institutions or Organizations operated in an unrelated manner, with isolated programs and information systems, often reiterating their services or unnecessarily duplicating the processes requested from users. In the case of children, this absence of coordination has consequences that may be extremely severe for the security, welfare and development of this population sector; for example, whenever a mistreatment situation arises, it is dealt with as an emergency, but in most countries there is no coordination to provide for a follow up ensuring that such risk has been actually overcome.

Due to this lack of coordination, it is necessary to go beyond the statements based on the Convention on the Rights of the Child, so that the principles related to child and adolescent integral protection be reflected into decisions, guidelines, actions, programs and services that should work in a systemic manner in order to assure that such rights, so repeatedly mentioned, become truly operational.<sup>2</sup>

**2.2. The child situation requires integral services.** From a historic perspective, the situation of children, as well as the coverage of the services they are provided, has shown a positive evolution on several areas related to the meeting of basic needs. Specifically, there is a series of social indicators related to child mortality rate, malnutrition, eradication of such preventable diseases as poliomyelitis, access to drinkable water, reduction of neonatal tetanus, and the increase of primary school registration.

Nevertheless, if reality is matched with other indicators "beyond subsistence" that relate to the quality of child services, serious deficiencies may be detected. We mean the quality of education; malnutrition that

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<sup>2</sup> The participants in the IIN Technical Consultative Meeting underscored lack of coordination and overlapping of child policies and programs as a general characteristic in the countries in the Region. Thus, priority was assigned to the creation of an integral protection system.

reflects in height according to age; child overweight; psychomotor development; read-and-write problems, etc.

In the same sense, if we analyze adolescent drug-addiction, family violence, child mistreatment, adolescent pregnancy, or youth offenses, as well as other events that have been defined as "emerging problems", raising figures can be noted with a trend that is not directly related to poverty reduction. This means that, although poverty rate may have decreased in some countries, these types of problems have increased.

On the above basis, it should be noted that current programs and services, with their present sectoral organization, have neither been able to solve those child needs that are beyond "subsistence", nor the increase of the so-called "emerging problems". The reason is that the causes and effects of such events are related to multiple factors, or "difficult" interactions faced by the child within his/her environment (be it family, peer group, neighborhood, community, etc.). For example, the child's psychomotor development is not only affected by his/her mother but by the whole family, the education, the access to certain goods and, ultimately, the immediate culture where he/she is inserted. The same happens in the case of drug-addiction or early pregnancy, just to name a few. Therefore, the adequate strategy to address such events should have an integral nature, not a merely sectoral one.

It may be said, with some degree of certainty, that we are about to witness the appearance of new emerging problems that still do not affect us, but which can already be seen in other societies with a higher development level. This refers, for example, to in-house school offenses, the hardest child and youth drug-addiction (heroin, crack), adolescent law infringement related to sexual crimes, etc. Therefore, the integral nature of child services becomes an imperious need.

**2.3. The need for a model or Prototype.** The child care system in each country is characterized by the participation and role of several stakeholders, institutions and stages, at various hierarchical levels, which altogether form, even for people with expertise on this area, a highly complex "map".

Obviously, those who just incorporate to child-related work require a training period, which often delays decision-making and managerial actions by Child Governing Bodies.

In this connection, the availability of a model or prototype allowing for a clear visualization of all parties involved, services delivered and their expected mutual coordination, as well as the feedback of processes, is essential for management and organization development in the child and adolescent areas.

### **3. REGIONAL CONTEXT**

**3.1. Developments and unresolved matters.** There are presently more than 190 million children in Latin America and the Caribbean, which represents almost 40 per cent of the overall population. All these boys, girls and their families need to believe that the future will be better than the present, and that their lives will fully develop in a respectful and supportive environment.

In this connection, during the last decade<sup>3</sup> some progress was achieved in such areas as Health, , where mention should be made to the reduction of the child mortality rate (from 37 to 26 deaths per 1.000 births in children under one year of age); the decrease in maternal mortality (from 153 to 114 per 100.000 live births), associated to developments in prenatal and birth care; the reduction of malnutrition rates in children under five years of age (from 13 to 9 percent); the eradication of such diseases as poliomyelitis and almost full reduction of neonatal tetanus, as previously mentioned. There has also been an improvement in the access to basic services, such as the increase in drinkable water supply coverage, which rose from 69 to 84 percent of the population, as well as the access to sanitation for sewage disposal, that shifted from 63 to 79 percent. As far as Education is concerned, it should be noted that primary school registration

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<sup>3</sup> The statistical information contained in this chapter is based on the document "Construir equidad desde la infancia y adolescencia" by ECLAC, UNICEF and SECIB, September 2001, prepared for Ibero-American Conferences and Summits.

reached almost universal rates, exceeding 90 percent coverage as an average.

Despite the improvement of average values in the Region, there are still significant disparities among countries, and in the countries. For example, in the child mortality area some countries show such encouraging rates as Chile, with 12 percent, or Costa Rica with 11 percent, as opposed to Bolivia with 56 percent or Ecuador with 42 percent. Likewise, as far as Basic Education coverage is concerned, some countries show rates over 90 percent, like Peru and Uruguay, as opposed to countries with lower coverage rates, such as Guatemala and El Salvador, with 72 and 78 percent, respectively. It should be noted that such disparities may become even greater, even within one given country, when these indicators are analyzed in accordance with the urban and rural conditions.

The above mentioned disparities add up to one further complex issue in the regional context, such as the persistent occurrence of "child-inclusive poverty", characterized by a greater proportion of economic shortcomings in households where children live, than in those exclusively formed by adults. Indeed, although in the last ten years some progress was achieved in poverty reduction, from 48 to 44 percent in the overall population, such progress had no impact on the lower age group in absolute terms, as the total number of children living below the poverty line rose from 110 to 114 million. This means that more than half the children and adolescents in the region are poor, and more than half of all poor are children and adolescents.

**3.2. The crisis in the Region.** The above adds up to the recent effects of economic globalization, as a result of which -notwithstanding the responsibilities of each country- the problems occurred in the developed countries have had an impact on the economies in this continent. Basically, insecurity vis-à-vis terrorism and the stagnation of world economic growth have severely affected some countries in the Region and spread into others. In fact, the difficulties arising in the strongest economies in Latin America, affected by indebtedness, a lower credit flow and price reduction of their commodities, as well as problems resulting from fiscal deficit and lack of competitiveness, have reflected onto the economies of other

countries in the Region, thus creating foreign exchange market instability that included persistent devaluations, inflation and the reduction of labor sources, with its consequent impact on the whole population and, particularly, on the access to the structure of opportunities by the poorest sectors.

Such crisis has recently given place to a raise of poverty rates and has increasingly fostered the setback of the achievements attained in the last decades on such issues as malnutrition, life expectancy, educational coverage, among others; this particularly applies to such countries as Argentina, with an outstanding tradition of social security, where the indicators related to child subsistence were considered as something of the past with no possibility of going backward. All these elements have created a significant confusion and a feeling of despair that tends to be come general.

Consequently, the National Child System should be considered within the context of a Region that is part of a global world where, once again, we witness the threat of a social and economic crisis with a complex prognosis.

**3.3. Regional strengths.** One aspect of the last decade that should be noted is that child-related concern has gained a place in the national and regional public agenda. This situation reflects in the ratification of the Convention on the Rights of the Child by all the Latin American and Caribbean countries by the mid '90s, which brought about a process of adaptation of the legal frameworks in each country to such international instrument. Indeed, some countries such as Brazil, Venezuela, Paraguay and Bolivia, already have new Codes in place on the rights of the child; other countries, like the Dominican Republic, Panama and Uruguay, are in the stage of parliamentary debate, while Chile and Argentina are about to adopt their new legal framework for children.

One further aspect that shows the increasing importance of child affairs in the Region, relates to the public visibility gained by ancient or long-dated problems affecting children, which are presently called "emerging problems"; we hereby refer to such situations as child mistreatment,

adolescent pregnancy, sexual abuse, labor exploitation, etc. That is, problems that had no great social visibility but that gained public echo during the last decade, attracting significant media coverage and being gradually inserted into the agenda of Parliaments, specialized organizations and the civil society in several countries. Likewise, these presently "emerging" problems have become part of the menu of social policies and programs in each country, while there are also information systems, statistics and indicators that account for and weight their current status.

Therefore, the commendable part of this scenario of undesired situations faced by boys, girls and adolescents, is the present existence of a social and political concern about issues that have always been present, but which were invisible until recently. In other words, children constitute today an increasingly important area in the continent, which is even present in the high political fora.

One further aspect that should be noted in the scenario that characterizes this continent, relates to the fact that all the countries in the Inter-American system have adopted, or reached, a democratic political order, which is an unprecedented event in the history of the Region, where authoritarian regimes not respecting civil and political rights were established for long periods in several countries. This situation has enabled the gradual strengthening of civil society in terms of its organization and participation into various ambits of social life. Its entities assumed a leading role in reporting the shortcomings and violation of rights, as well as a participation in the implementation of solutions.

In such connection, the existence of varied and multiple consolidated and well-known civil society organizations in each country in the Americas, constitutes a support network, particularly for the most underprivileged groups, by undertaking a containment role to face the impact of economic crisis that now and then affect the Region. This fact is most probably the

one element that has enabled democratic governments to keep alive in spite of the severe socioeconomic crisis that they are facing.<sup>4</sup>

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<sup>4</sup> One aspect noted by the participants in the Consultative Meeting convened by the IIN, was the increasingly significant role of the organized civil society in the structuring of decisions related to social policies, as well as its overall participation in the offer of child services.

## **CHAPTER II SET OF GUIDING PRINCIPLES**

### **1. PRINCIPLES OF THE NATIONAL CHILD SYSTEM**

An explanation should be given on the principles or assumptions on which this proposal is based, as they define and shape its framework by defining its consistency and relevance.

#### **1.1. The rights of boys, girls and adolescents are Human Rights.**

There is an erroneous trend to consider the Rights to which individuals are entitled at various stages in their lives (children, elderly), or either due to gender reasons or to different capabilities, separately from the Basic Right protection doctrine.

Human Rights are those intrinsic rights in our nature.<sup>5</sup> Their application scope is universal. Every human being is considered to be entitled to such rights because they are inherent to human persons without any distinction as to age, race, skin color, sex, language, religious beliefs, political opinions, nationality or social origin, birth or any other condition.

"All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood". (Article 1 in the Universal Declaration of Human Rights).

Basic rights include the right to life, liberty and security of person; to be not held in slavery, servitude or forced labor; to be not subjected to torture or to cruel, inhuman or degrading treatment or punishment; to recognition

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<sup>5</sup> Teaching Human Rights, United Nations Bulletin.

everywhere as a person before the law; to an effective remedy by the competent tribunals for acts violating his rights; to be not subjected to arbitrary arrest, detention or exile; to a public and fair hearing by a competent tribunal; to movement, to a nationality, and to freedom of peaceful assembly and association. These rights apply to everybody, whether legally capable or not.

The rights of children cannot be isolated from the human rights that adults enjoy as well. Nevertheless, children should additionally be entitled to special rights, in their capacity as growing individuals. For such reason, the international community decided to adopt an international instrument specifying the rights of individuals below 18 years of age. This instrument, known as the Convention on the Rights of the Child, includes comprehensive provisions related to a variety of rights and protection systems for all children. In such sense, it establishes the criteria for the exercise of such other rights as the freedom of expression (articles 12, 13 and 14), and the freedom of thought, conscience and religion. The right to freedom of association and peaceful assembly is also provided for (article 15). It is assured that every boy or girl should be entitled to privacy, without arbitrary or unlawful interference on his/her family or domicile, or attacks on his/her honor and reputation (article 16).

## **1.2. Boys, girls and adolescents are rightholders.**

There is no doubt that the Convention on the Rights of the Child is the most refined summary of a new paradigm for interpreting and facing child-related issues, by introducing a significant twist in the position of children vis-à-vis the legal framework, the family, the community, and the State. Such twist involves a shift from considering the children as "objects" of concern, protection and control, to become rightholders before their parents, the community and the State.

As opposed to the juridical and social tradition prevailing in many countries prior to its adoption, the Convention does not define the boys, girls and adolescents on the basis of their needs or shortcomings, on what they still lack to become adults or on what impedes their development. On

the contrary, children are viewed on the basis of their rights before the State, the family and the society, and consequently as rightholders.

One of the major contributions of the Convention on the Rights of the Child is considering children as individuals going through a special period in their lives, where the development of their potential is at stake; therefore, they are most special rightholders who should be endowed with a supplementary protection, meaning new guarantees beyond those applied to all individuals, resulting from the recognition of their capacity as a growing individuals and their consequent right to be empowered and protected by the family, the society and the State. The key assumption within such context is that any unlawful interference in their rights will affect their present life, but will equally mark their future possibilities.

The consideration of this principle, as a guiding principle for the creation of a National Child System, is particularly important in order to achieve some progress in each country in a new type of social relationship children-family; children-community; children-society; children-State, and therefore to move forward towards the establishment of a new culture concerning boys, girls and adolescents.

### **1.3. The best interests of the child as a guiding principle.**

According to this principle, in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

This principle must be necessarily viewed as the fulfillment of the basic rights of children, and no other interest can be assumed to be above the effective enforcement of such rights. In operational terms, it means, for example, to avoid any corporate approach or any institutional subsistence criterion to be placed above the best interests of children.

Therefore, this principle reflects the integral nature of this doctrine, which is defined by the indivisible and integral protection of rights and, in turn, by its close relationship with the general human right doctrine. Taking into

account that children are part of mankind, and that their rights are not exercised separately from or opposed to those of other individuals, the Convention proposes this principle as a form of "arbitrating" any eventual conflict that might arise throughout the exercise of rights, either within the ambit of basic rights and liberties, or of economic, social and cultural rights.

The prevailing best interests of the children over any other interest should have a direct impact on the legislative reforms that should be passed to adapt the juridical and regulatory frameworks to the provisions in the Convention, as well as on the type, quality and timeliness of social services made available to children, and on the priority that should be assigned to public utilities for the service of boys, girls and adolescents.

#### **1.4. The integral development of children.**

As above mentioned, a large number of articles in the Convention recognize children as growing individuals who are undergoing a special period where the attainment of the full exercise of their potential is at stake. This is so described, for example, in article 6, which establishes that States Parties shall ensure to the maximum extent possible the survival and development of children; or in article 27, which recognizes the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development, while article 19 commits the States Parties to 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, etc.

The consideration of this principle makes it necessary to include in the National Child System the approach on the development needs of children, and to place them above their problems and difficulties. It also involves the recognition of priority, special and particular needs in each development stage of children. The inclusion of this approach bring about an overall challenge for national public policies, in the sense that the programs, services and benefits currently aimed to children should simultaneously taken into consideration other components that ensure the

physical, mental, emotional, spiritual, moral, social and environmental welfare of children.

On one hand, the above implies an effective action on those social, economic, cultural, physical and environmental conditions that hinder the integral development of children and their families, and on the other, the deployment of an integrated and coordinated action organizing the services and allowances provided by the State Administration through its various sectors and levels, either by itself or together with the civil society and the private sector, in the understanding that the overall welfare of children is the responsibility of the whole society.<sup>6</sup>

Therefore, the design and operation of the National Child System requires that all child-related parties be coordinated in a systemic way, thus allowing for their consistent, integral and effective interaction, while assigning priority to the promotion, fulfillment and redressing of the rights of children as the ultimate purpose of the System.

### **1.5. Universality**

The National Child System considers children as its main stakeholders, without any arbitrary discrimination based on race, skin color, sex, language, age, conscience, religious belief, political opinion, sexual orientation, culture, ideology, economic status, social origin, ethnic origin, nationality, different capabilities, physical handicaps, birth, diseases, or any other condition.

Consequently, universality means that opportunities should be available for the whole universe or population below 18 years of age in all countries. The System envisages a "space of opportunities" for them all, without exceptions.

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<sup>6</sup> The IIN fully agrees with the views stated during the Consultative Meeting as to the fact that "the State should not delegate its primary responsibility of preserving the rights of the child as provided for in the Convention; it may jointly implement policies with the civil society, but it cannot delegate on it the ultimate protection of such rights."

## **1.6. The respect of national diversity.**

For several decades, the countries in the Region have developed heterogeneous juridical, administrative and operational structures for dealing with child issues. This heterogeneity applies to both the coverage and quality of universal services for children, and to the coverage and specialization of compensation or redressing measures. There are also differences as to the decentralization level of actions in each country, some being restricted to the design and planning of policies for central levels and to the execution for local levels, while others are more centralized as far as policy design and execution are concerned.

Thus, one further differentiating aspect consists of the degree of development or welfare of children in the Region. In fact, some countries have rates of mortality, malnutrition, schooling, mother-child care, etc. that are similar to those of developed countries. Others, on the other hand, are among the countries with the lowest indicators in the world.

The adaptation of the juridical, administrative and programmatic frameworks in each country to the provisions in the Convention on the Rights of the Child, is one further element of heterogeneity in the Region. In fact, some countries have already adopted their new codes or laws, while others are in the middle of a parliamentary process, and some have not started it yet. There are also countries where reforms are in a second generation stage, and where the new legal framework has not been too useful in order to modify the life conditions of children.

Now, the above differences among countries respond to the diversity of their historic dynamics concerning their political models and situations; the juridical and administrative frameworks in place, or the economic development models adopted by each country. Likewise, the idiosyncrasy of each country in the Region shows some similarities between one and the other, but also some significant differences. This situation requires being respectful of the national features and processes.

Therefore, the National Child System should be viewed as a general model providing some guidance on the policies and actions developed by the

various countries on behalf of boys, girls and adolescents, while respecting their differences, paces and idiosyncrasy, without imposing any structure or proceeding, but just serving as an input and framework for action focused on the best interests of the child. IIN actions are inscribed within the context defined by such policy.

### **1.7. A professional management.**

One common aspect to all countries in the Region is the lack of resources as compared to child-related existing needs. Thus, the wrong use of resources allocated to child needs is a component that increases inequity and the exclusion of children.

In such connection, the creation of a System allowing for resource allocation to those who are in greater need of them, for monitoring their administration, and for assessing their outcome and impact, should have priority. For that purpose, it is necessary to count of components for periodic assessment, where the implementation of a performance indicator system, the research as a tool for planning and adapting to changes, and the availability of information systems as an input for decision-making, are key elements.

The work on behalf of children no longer allows for improvisation or politicization. Only a sustainable technical management, that should even exceed each government's term, may ensure that investments made for the benefit of boys, girls and adolescents, have the expected impact and modify a situation that has become untenable.<sup>7</sup>

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<sup>7</sup> During the meetings held for the preparation of this document, one of the aspects that gave rise to dialogue and general consensus among the invited consultants, was the need for a greater professionalization and cross training of all parties in the various stages of the System. The improvement of services for children not only requires additional financial and material resources, but also better human resources throughout their management.

## **CHAPTER III OBJECTIVES OF THE NCS BASIC PROTOTYPE**

### **1. GENERAL PURPOSE**

To make available to the countries in the Region a model of National Child System that should become a guiding and coordinating reference framework for the actions taken by the State and the civil society for the benefit of boys, girls and adolescents.

### **2. SPECIFIC OBJECTIVES**

- a) To enable the countries in the Region to visualize and diagnose their current Protection Systems, as well as the actions of organizations and parties involved in child-related issues, taking as a basis for their analysis a reference model that has been designed and agreed upon at regional level.
- b) To make available to the countries in the Region a technical tool helping to define or adapt their Protection Systems, as well as to develop a consistent policy, program and project planning.

## **CHAPTER IV**

### **LOGIC DEVELOPMENT OF THE NATIONAL CHILD SYSTEM**

In almost every country in the Region there is some type of System for which children and adolescents are the main concern or end-users. Although those structures may not be defined or visualized as such, it is a fact that in each country there are bodies at various ranking levels, as well as more or less targeted programs, which perform with some degree of coordination for the benefit of children. These "systems", many of which are more than one century old, have evolved and improved the living conditions and social security of children in our continent. This has reflected in developments in health care, schooling, new and diverse programs for highly vulnerable children, etc.

This means that, to some extent, child-oriented "systems" already exist in the countries; therefore, to turn them into true National Systems it is necessary to improve their operation by having a bearing on their re-design or reconstruction from a new perspective, from a holistic perspective which, with a right-based approach, allows for visualizing its integrating elements. All this will result in a better management and a greater effectiveness of the care and living conditions of children.

In this case, one possible methodology for addressing the creation of a child System is to disassemble each one of its parts or elements and to analyze their meaning within the overall system.

In such connection, the first breakdown level of the National Child System (NCS) promoted by the Inter-American Children's Institute is built upon three Sub-systems, each one of which has the logic basis of a system in itself but, as a result of their interdependence, are part of a greater system, that is, the NCS.

These three Sub-systems, on the basis of which the National Child System is organized as a Basic Prototype, are:

- a) the Legal Protection Sub-system,
- b) the Judicial Protection Sub-system, and
- c) the Social Protection Sub-system.

It should be noted that to observe the National Child System from the viewpoint of the Sub-systems that are part of it, , allows for considering child care from a wider perspective, thus facilitating the analysis of its consistency and inconsistency, as well as its gaps related to programs, parties involved and organizations.

## **1. PROTECTION SUB-SYSTEMS**

The major development within the proposed National Child System is the Social Protection Sub-system, and within it, the targeted programs. Nevertheless, the other two Sub-systems will also be addressed, as only the coordinated action of the three Sub-systems may provide an integral protection for children and adolescents.

### **1.1. The Legal Protection Sub-system.**

The Legal Protection Sub-system is formed by the various juridical frameworks in each country that relate to that part of the population below 18 years of age. It relates to the codes and laws that define the child-State, child-community, and child-family relationship, and which ultimately set forth the regulatory framework for actions between children and the society as a whole. Thus, the characteristics of this Sub-system will reflect the ideological approach of a society in connection with their children.

For example, the Legal Protection Sub-system is the regulatory framework that establishes the number of years of compulsory school attendance of children; parental duties; the obligations of each parent after separation; the role of the State in cases of violation of children's rights; the duties of judges vis-à-vis children, etc. Thus, the significant incidence of the Legal Sub-system in the creation of a National Child System.

According to the above, it should be noted that several countries in the Region currently undergo some tension resulting from the coexistence of two juridical models of a different and opposed nature, which regulate the relationship between children and the various parties involved within the

society. In fact, on one hand it has to do with the juridical framework, still prevailing in several countries, that is rooted in the so-called "irregular situation doctrine", the main feature of which is assigning the State (through the Judges for Children) a significant and prevailing role in the situation of children, above the family, the community, and boys/girls themselves, thus ignoring or not taking into consideration the existence of children's rights.

Another juridical framework, which has been ratified by all countries but which has not become yet a full Code with a regulation of its own in several countries, is the Convention on the Rights of the Child; as already described in this document, the core aspect of the Convention recognizes the existence of children's special rights, and assigns them, their families and the community a key future role, while only considering the direct State intervention as a last resort.

The tension existing between these two still coexisting juridical frameworks, should be solved according to the paradigm set forth in the Convention, which represents the new pole towards which mankind's evolution moves in the area of human rights, and particularly of children's rights. Indeed, countries are moving towards such pole, and the proposed National Child System should contribute to a prompt consolidation of such process through the prevalence of the right-based approach.

The consideration of children as fully entitled rightholders, as well as the provision of suitable mechanisms for the enforcement of their rights, as opposed to their consideration as compassion-repression and guardianship objects by the State, reflect the change that should characterize the shift towards the new Integral Protection paradigm on which the Legal Protection Sub-system should be based.

Therefore, the legal protection challenge implies lawmaking to enforce the rights established in the Convention on the Rights of the Child and in other related international treaties and conventions, thus generating a modern legal framework, based on the Integral Protection Doctrine, which should make possible to create administrative (social protection) and judicial

(judicial protection) proceedings applicable whenever such rights are threatened or violated.

It is necessary to study the relationship and consistency between the current Legal Protection Sub-system in each country and the principles set forth in the Convention on the Rights of the Child, in the sense that the closer the Legal Sub-system is to the juridical framework suggested by the Convention, the better will be its performance for complying with a true legal protection.

As to the parties involved in the Legal Protection Sub-system, the leading role is performed by the Legislative Power in each country, formed by one or two-house Parliaments, their Human Right Commissions and the local Boards or Parliaments. They all have a role to fulfill in order to ensure the full enforcement of the Legal Protection Sub-system.

### **1.2. The Judicial Protection Sub-system**

The Judicial Protection is also a Sub-system, formed by the authorities responsible for the enforcement of child-related law and juridical codes in each country. Such responsibility has traditionally been assigned to the Judicial Power, that is, to Judges for Children, Child Courts, Family Judges, Enforcement Judges, Child Ombudsman, and social monitoring organizations.

One previous aspect that needs to be visualized, relates to the child-related field of action that society, and more specifically the State, has traditionally assigned the Judicial Power. Actually, in the last 50 years, most countries, based on the incidence of the so-called "irregular situation doctrine", have assigned the Judicial Sub-system a wide range of action, taking over several functions that had been entrusted to the organizations responsible for social protection, that is, invading the jurisdiction of the Social Protection Sub-system. This can be illustrated by the uncountable cases of children admitted into institutions for being poor or homeless.

In such connection, the countries in the Region should analyze the degree of "contamination" that exists between the Social Protection and the

Judicial Protection Sub-systems. Thus, the question is: to what extent does justice administration intervene in social problems affecting children, or at what time do social policies intervene in judicial conflicts of interest?

Specialized fields of action should exist in the proposed National Child System, together with a strict distinction between Judicial Protection and Social Protection; this implies to de-judicialize the social causes or situations that affect children, while only recognizing juridical conflicts of interest as part of the Judicial Power's jurisdiction.

Therefore, according to this approach, the problems of children at social or right-violation risk are solved by means of more or less targeted social policies and programs, such as schooling, primary health care, recreation programs, etc., and if necessary, through remedial interventions for those children whose rights have been severely violated.

The participation of the Judicial Protection Sub-system will also take place whenever adolescents are involved in a situation of conflict with the law, or when children whose rights have been seriously violated require a judicial intervention for the benefit of their best interests.

Taking the above into consideration, the Judicial Protection Sub-system should count on two specialized components: a Justice Administration for children whose rights have been violated and where judicial intervention will seek for repairing such violated rights. For example, the case of children victims of severe mistreatment or sexual abuse, or given for adoption for the sake of their best interests and with the adequate technical intervention, etc. That is, cases where any decisions on the situation of children, as well as on the measures to be taken against perpetrators, fully justify the intervention of courts or judges. In general, Family Courts should be the judicial instance of most frequent intervention.

The other specialized component pertains to that part of Justice Administration responsible for the criminal liability of adolescents and regulates the situation of youth in conflict with the law. In such cases, and provided the respect for due process assurances, measures may be taken for an eminently social and educational purpose, helping them to assume

the harm caused to third parties and preparing them to freely and responsibly become part of citizen coexistence.

Within this context, the relevant judicial authority will be the special Courts and Judges for youth under age in conflict with the law.<sup>8</sup>

### **1.3. The Social Protection Sub-system**

Social protection within the child ambit is achieved by means of a series of actions aimed to promote the necessary conditions for the development of boys, girls and adolescents, to meet their basic needs, to ensure their fundamental rights, and to restore such rights whenever they are violated.

For that purpose, a Sub-system is required that should be formed by a network of organizations and programs related to the State and social organizations and potentially encompass all children without exception. Therefore, this network should take into consideration various levels of universality and targeting in child-oriented policies and services, in accordance with the target situations and population as defined in policies and programs, ranging from universal protection that covers all children without any distinction, to the most targeted ones aimed to children whose rights have been violated to various extents.

#### **1.3.1. The Social Protection Sub-system envisages two types of child public policies.**

- a) **Universal public policies:** these policies reflect the duty of the State, as well as the rights of boys, girls, youth and families throughout society. In many countries, such policies and implemented programs have a constitutional rank and usually relate to such basic services as health, education, housing, nutrition, recreation, etc., that is, to actions

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<sup>8</sup> As mentioned in the Consultative Meeting, this has also been called separation of proceedings in the judicial environment, and represents one of the conditions for the creation or enforcement of a true Integral Protection System.

developed by various bodies or entities, which cover a wide range of services.

These services are of a universal nature, as long as they are available for the whole child population, without any distinction. Therefore, they do not require a selection to be made within a user category, as their universe has already been taken into account.

From the National Child System perspective, the articulation or coordination of such universal policies and programs is essential in order to optimize the State human, material and financial resources, as well as to ensure the enforcement of the economic, social and cultural rights as provided for in the Convention on the Rights of the Child.

- b) **Targeted public policies:** within the framework of the National Child System, child targeted policies should be designed for the purpose of leveling opportunities for those sectors of boys, girls and adolescents whose rights have been violated.

In other terms, the population who benefits from these targeted programs or services consists of those boys, girls and adolescents whose opportunities of potential development, deficit compensation, and integration or re-integration to their families, their communities, the educational system or the formal labor market, have been blocked.

This right to equal opportunities for boys, girls and adolescents is precisely the key reason for the development of targeted services, as they mainly deal with those who have been left outside the universal services, or who require special input in order to reach equality.

Targeted services for boys, girls and adolescents are highly specialized, and therefore quite costly, as they relate to interventions associated to right repair. Thus, such services should always be provided as a compensation or "support" of universal services, never as their replacement. So, the greater the coverage and quality of universal services may be, the less will be the need for targeted services.

In other terms, targeted services do not exclude universal services. Actually, the population that benefits from the first will keep being the user of the second; for example, children integrated to a right repair program, should remain as users of the educational system, health services and any other public utility.

### **1.3.2. Parties involved in the Social Protection Sub-system**

As to the parties responsible for the design and/or execution of policies and programs, the Social Protection Sub-system has identified the following:

#### **i. Parties involved in universal public policies**

- **Sectoral governing entities.** These entities correspond to social Ministries (Health, Education, Sports, etc.) and are responsible for designing sectoral public policies at national level addressing boys, girls and their families, which are of a universal nature. Such Governing Entities or Ministries exist in all countries.

Subject to the decentralization level in each country, the current trend shows that such universal services should be delivered and implemented at local level, thus becoming closer to children and their families and having a potential capability for a better treatment of individual rights.

#### **ii. Parties involved in targeted public policies.**

- **Sectoral targeting committees.** These parties correspond to formally established Commissions with the participation of representatives from the social Ministries, the Public Services and social organizations. They generally operate in the orbit of social Ministries. They are competent to design targeted "action plans". For example, that is the case, among others, of the Committees for the Eradication of Child Labor, for the Prevention of Drug Abuse, for Children with Different Capabilities, for Children in Armed Conflicts, and for the Fight against Commercial and Non Commercial Sexual Exploitation. The

importance of these Committees lies on gathering various bodies related to each specific issue, for the purpose of defining joint policies and actions.

Within the NCS, these Committees are related to the Sectoral Governing Entities and the Protection Body, thus forming a more effective protective network.<sup>9</sup>

- **Protection entity or body:** it is a specialized body within the public sector which, according to the various organizational and administrative patterns in each country in the Region, is responsible for the implementation of targeted services for those boys, girls and adolescents whose rights have been seriously violated, and for those who are legal offenders. This does not mean that such Entities or Bodies may not also carry out preventive actions (such as temporary child protection due to parent's death) or being responsible for the coordination or articulation related to child policies and programs.

As far as the development of protection policies is concerned, it should be noted that this Protection Body, as envisaged in the NCS, should participate as an advisor in the design of the universal policies and programs developed by the Sectoral Ministries, as well as actively participate in the Sectoral Committees of Targeted Policies, perhaps assuming the role of Technical Secretariat in many of them.

Together with the above, the Protection Body should perform a leading role in the stage of general coordination of the National Child System - which we shall discuss later- and will actively participate in the development of the national guidelines related to children and adolescents.

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<sup>9</sup> The Consultative Meeting underscored the need for these Committees not to be divorced from a global child care system, in order to avoid duplication or overlapping of targeted policies.

The services offered by the Protection Body become effective once the universal services have failed and boys, girls and adolescents are in a situation of exclusion, violation of their rights, or conflict with the law.

The present trend on targeted care consists of generating specialized services, depending on whether the user is a child under age whose rights have been violated or an offender adolescent. In some countries, there have even been proposals for the creation of different Services or Bodies to deal with each problem.

In the proposed National Child System there is only one Protection Body that specializes in two intervention areas.<sup>10</sup>

Protection for children whose rights have been violated. This specialization area is formed by a program network throughout the country, directly managed by the Protection Body or by non-profit private institutions, financially assisted and supervised by the State.

Action criteria consist of exhausting the possibilities for solving the case of right violation by means of family, sectoral or community resources, thus avoiding the case's judicialization, as well as favoring, above institutionalization, the support of parents and families in order to enable them to perform their raising, care, and protection roles.

Programs or services are of various kinds and are organized on the basis of three major components:

- Admission component: stage aimed to assess the possible admission of children into targeted programs.
- Prevention component: programs aimed to those boys, girls and families whose rights have been threatened or who are at risk.

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<sup>10</sup> This position was assumed taking into account previous considerations on what was mentioned and defined as "separation of proceedings". One of them constitutes the ambit of programs aimed to children whose rights have been violated, while the other constitutes the ambit of programs aimed to adolescents related to legal offenses.

- Special Protection component: remedial programs for boys, girls and adolescents whose rights have been seriously violated.

Each component will be discussed into further detail in the following pages.

Protection for adolescent offenders. This specialization area refers to the Technical Institutions providing care to youth in conflict with criminal law. It is responsible for enforcing the measures adopted by courts or judges on adolescents convicted of a crime within the framework of due process. The final purpose of such measures is the assumption of responsibilities and the family and social insertion of adolescents. To such end, a program network should be in place throughout the national territory, either directly managed by the State or by private institutions funded and regulated by the Protection Body, which should not delegate its ultimate responsibility to watch over the respect of human rights of the population involved.

The admission of any adolescent into Youth Responsibility Programs will respond to a judicial measure taken by the Courts. In turn, any action affecting youth should taken into consideration the principles and criteria for adolescent offenders as provided for in the Convention on the Rights of the Chile and in other regulatory instruments of national and international law.

As to the programs defined for this area of the Protection Body, they relate to the judicial decision, according to a list ranking from freedom deprivation to community service education measures.

- **Private institutions or social organizations**. The parties involved in the targeted ambit include those civil society associations that have organized to provide services to children and adolescents, or to watch over their rights in various forms. They coordinate their action with

the Protection Body, from which they often receive technical and financial assistance, and which also monitors and evaluates them.<sup>11</sup>

Moreover, it should be noted that such Institutions have a long standing in our continent, and many of them exist since colonial times, performing a task which is rather prior to the creation of Protection Governing Bodies. Consequently, these parties should be recognized and legitimized in all countries as a substantial part of a National Child System.

## **2. COORDINATION AMONG PROTECTION SUB-SYSTEMS**

### **2.1. Overall System coordination**

The coordination that should exist among the Sub-systems that are part of the National Child System is an aspect of key importance. This has been an obstacle or shortcoming in most countries in the Region.

In fact, in recent years the Protection Bodies in some countries, after a reflection and maturing process in their performance, and based on the Convention on the Rights of the Child, have decided to design and implement programs according to the principles provided for in the Convention, consequently facing a Legal and/or Judicial Sub-system rooted in the parameters of the irregularity doctrine which hindered the change process.

There are also opposite examples, as in countries where significant changes have been introduced in the Legal Sub-system through the development of Codes consistent with integral protection, but which cannot become operational due to the existence in place of a Social Protection Sub-system

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<sup>11</sup> Within the protection ambit there are also private institutions unrelated to the Governing Entity. Nevertheless, the NCS proposed by the IIN considers coordination as a sine qua non condition for the existence of a true system at national level.

that keeps operating according to patterns prior to the Convention, or which lacks the required service quality and coverage.

Moreover, it may be noted that the absence of an adequate coordination not only occurs among Sub-systems, but also inside each Sub-system. Indeed, if the Social Protection Sub-system is analyzed, in many countries in the Region it is possible to observe that the design of child policies and services is undertaken by several parties, in an autonomous and unrelated manner (health, education, nutrition, recreation, justice administration, etc.). This favors the development of inconsistent plans, the division of efforts and resources, the overlapping of programs and the delivery of parallel services, which ultimately jeopardizes the quality and effectiveness of services. This lack of national inter-sectoral action and coordination can also be seen a local or community level, where services are also sector-delivered, without an integral and technically planned and managed action plan.

Notwithstanding the above, the need for an inter-sectoral work is nothing new for the various bodies working in the child area, as shown by the uncountable agreements between Ministries and bodies, Framework Agreements, National Child Plans, and other commitments intended to favor inter-sectoral action; nevertheless, in many cases this coordination effort has only remained at the level of upper echelons and institutional bureaucracies, and has not translated in the improvement of services for children.

One of the main reasons for such dysfunction has consisted of the absence of an institutional mechanism ensuring and replicating inter-sectoral actions, that is, a body with authority and influence.

In order to achieve the creation of this Sub-system coordination body, and to be able to count on parties who actually participate within the framework of the National Child System, the existence of the adequate Administrative Entities is of importance. In this connection, the initial proposal is to create a National Committee or Council on the Rights of Boys, Girls and Adolescents, with the participation of Ministries and Heads of Services related to the national child area, as well as of Civil

Society Organizations. Such Committee would be chaired by the authority with the highest jurisdictional rank and relevance, and would be responsible for designing and coordinating national child policies, as well as for monitoring the status of the rights of children.<sup>12</sup>

The fulfillment of the rights of children is a horizontal theme, that goes across all the sectors or ambits where child services are implemented (the school, the clinic, the targeted programs, etc.). Therefore, an administrative body such as the above mentioned Committee, responsible for horizontally monitoring or watching over the situation of children's rights at national level, is required. For its operation, this Committee should count on an Executive Secretariat, or National Child Secretariat, which, within the NCS structure, is proposed to be held by the Protection Body.

In summary, the availability of a National Committee or Council allows for assigning the child area a significant weight within the national political spectrum, while being an optimal forum for the organization of inter-sectoral actions in budgetary and operational terms.

## **2.2. The role of the Protection Body in the coordination of the System.**

On page 20, we emphasized the role of the Protection Body among the Parties Involved in Targeted Public Policies, due to its assigned responsibilities. We showed that it was a specialized body in the public sector responsible for the implementation of targeted services for the benefit of several target populations. We also analyzed the role of this body, which was not to replace universal services, but to act whenever they fail, and whenever children are "left out" the sectoral systems in a marginal situation.

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<sup>12</sup> As it may be observed throughout this document, the Organized Civil Society participates in various stages and levels of the National Child System, with a presence in both the highest ranks and the more operational ones. It is actually integrated to the National Council on the Rights of the Child. It also participates in policy design through the Sectoral Targeting Committees, and later on in the implementation of various programs aimed to children and adolescents.

Now we intend to stress the roll that this Protection Body could perform in connection with the coordination and articulation of all public and private parties intervening in a national child sector, in order to ensure that the design of child policies should be based on a right-based approach, to provide technical assistance to the budgetary authorities of the Executive and Legislative Powers, and to provide for the required program monitoring and assessment. As the Protection Body performs an outstanding role within the Social Protection Sub-system, its various "components" will be specifically discussed in Chapter V, as many of the reorganizations underway in our countries seek for inspiration in a Prototype, not for mechanically replicating it, but for guiding their reform process taking advantage of somebody else's experience and a technically addressed systematization.

## **CHAPTER V**

### **ORGANIC STRUCTURE OF THE NATIONAL CHILD SYSTEM**

This chapter is the graphic expression of the previous ones. It contributes to understand the relationship existing among the parties involved in the NCS by visualizing, in an innovative way, its Organic Structure. It consists, then, of a new form of introducing a design that may be adapted to the various countries, according to the logic pattern followed along the text of this document.

Behind this Organic Structure lies a System that was conceived to implement ONE State policy for Children and Adolescents, which should be able to apply beyond national government terms, thus implying the need to count on the broadest possible support from the whole national political spectrum and the organized civil society in order to be fostered as one single System.

The design of this Organic Structure took as a paradigm those principles discussed in CHAPTER II, which are summarized in what is known as the Integral Protection Doctrine.

The graphic design of the Organic Structure envisages a pattern of participation that foresees the interaction between the State, the Civil Society and the Boys, Girls and Youth themselves in all stages. A shift takes place from a right-based approach, which determines the mention to ONE national child policy, to the richness of programmatic PLURALITY, with the prospect of taking advantage of the strengths of all the parties involved and for the purpose of providing for alternatives that will make it possible for all boys, girls or youth to avoid being excluded from exercising their rights, to which they are entitled in their capacity as individuals and citizens.

As it is presented, the Organic Structure seeks for facilitating a systemic analysis of intervening parties, institutions, their profiles, roles and

interaction; the linking channels among the various Protection Sub-systems; the state and private sectors, together with their connections and supplementary actions; the universal and targeted approaches, the Protection Body, its governing role, the centralized jurisdiction it should be provided with, even in the public opinion, its coordinating role, etc.

The only purpose for resorting to this type of presentation of the Organic Structure, that is, from top to bottom as to the rank and specific nature of its contents, is that the Child System in each country actually organizes and systematizes all relationships, thus avoiding dispersion and establishing closer links among all parties involved, in order to build up with greater effectiveness a complex architecture which, only if it works "as a clock", will be able to generate the respect of the rights of children as provided for in the Convention.

## **CHAPTER VI THE PROTECTION BODY AND ITS COMPONENTS**

### **A. ADMISSION COMPONENT**

The Admission component is defined as the "entry point" to the programs of the Protection Body. Its purpose is to assess the situation boys, girls and adolescents in order to determine whether it justifies referral to some targeted program. Children who enter this stage are in turn referred by Courts, public or private institutions, their families, or by their own will.

As to the use of the term "Admission component", it should be emphasized that such mode does not involve the admission into institutions or similar entities. All to the contrary, the professional approach of diagnose and referral to various programmatic modes seeks for avoiding institutionalization and subsequent risks. The proposed NCS is inspired in a philosophy in which the institutionalization of a boy or girl should take place, similarly to freedom deprivation in the case of an adolescent, "only as a last resort and for the shortest possible time".

Basically, the admission into the programs has four characteristics:

1. Diagnose and referral centers. This stage involves a very short technical approach aimed to diagnose and refer boys, girls and adolescents who require protection and assistance. Their roles are to advice the Court or the Judge or directly refer the boy or girl to a program which should take better care of his/her best interest.

Besides the primary diagnose purpose of such Centers, in specific cases they also perform brief interventions on those boys, girls and families whose situation may be remedied by means of a particular assistance action. The reason is to avoid institutionalization and judicialization.

This type of Centers is also organized according to the age range of their target population: breastfed infants, preschool and school-aged children, and adolescents.

2. External diagnose centers. This mode applies to the care of boys, girls and adolescents whose situation allows for the assessment to be made in their current habitat, that is, their family and their community. This work takes place in locations to which the children and their families go for interviews and guidance, and are then visited at home by professionals from the Center for ongoing evaluation purposes. "Brief interventions" are performed as well.

These are extra-judicial stages for those children and adolescents referred by public or private institutions, community bodies, or at the request of their own families, or at the request of the children themselves.

3. Right protection offices. These entities are generally related to municipalities and to their community care coverage. They develop such actions as the promotion of rights, information, guidance, joint work with local networks, brief interventions, etc. They diagnose children for the purpose of determining their risk level and immediate needs requiring attention.
4. Diagnose centers for convicted adolescents. These centers admit adolescents referred by the specialized justice for the purpose of determining the feasibility of their inclusion in socio-educational measures. In this organic stage, the primary diagnose of the Court is refined, and the referral of the adolescent to a most adequate service or program is defined. Any referral of youth in conflict with the law to such programs should be subject to a prior judicial decision.

## **B. PREVENTION COMPONENT**

The Prevention component is formed by programs aimed to those boys, girls and adolescent who do not show significant vulnerabilities and who are under the responsibility of their own families. The care actions in this

case are of a primary level and boys or girls are not uprooted from their family environment.

The programmatic plurality of this component has the purpose of contributing to generate the conditions for the full exercise of rights by boys, girls and adolescents, so that none of them is excluded from the rights to which they are entitled in their capacity as individuals, while favoring strategies aimed to strengthening family and community capabilities in order to minimize or revert the threat of right violation.

Children are referred to these stages by public or private institutions, their families, and by their own will.

Programs vary from one country to another. Nevertheless, within the NCS framework we described those that appeared to be of general interest for child-related authorities in the Region.

- a) Promotion of rights and strengthening of community networks. These are educational programs for the purpose of raising the awareness of communities on the protection of children's rights, while strengthening existing community networks for enhancing their activities aimed to the development of children and adolescents within their own community. The work is carried out by means of dissemination campaigns, workshops with the participation of community leaders, and joint activities with local existing organizations.
- b) Family-assistance guidance and consulting programs. These programs offer the families a social, psychological, legal, economic and medical consulting service aimed to deal with situations of right violation at their initial stages, such as neglect, family conflict, school absenteeism, school conflicts, etc.
- c) Day-care programs for children and adolescents. These programs take place in day-care institutions, generally based in poor or marginal sectors, and are aimed to provide care for boys, girls and adolescents at risk or whose rights are threatened. Their purpose is to enhance the

intellectual, emotional and social development of children, as well as to contribute to the development of family potential.

They are generally specialized according to the age range of children:

- Preschool children, with early stimulation, psychomotor development and parental schools, among others.
  - School-aged children, outside school hours, including school support activities, integration into community associations, recreation, and parental schools, among others.
  - 15-year old adolescents and older, in Youth Clubs where activities generally take place in the afternoon hours, related to personal development, recreation, artistic and cultural activities, among others, for the purpose of contributing to the inclusion of adolescents and offering them the opportunity of building up and consolidating their own identity, as well as learning non violent strategies to approach their problems.
- d) Integral day-care programs for boys, girls and adolescents with different capabilities. Most boys, girls and adolescents with disabilities may be integrated to day-care programs such as those previously described. Those who show multiple disabilities may require specialized services or supplementary stimulation and therapeutic programs, or other services.

These services are essential to provide support to those families with children who have these special characteristics and require aid and guidance for their adequate care and for the respect of their rights. The NCS presented by the IIN proposes in a decisive and committed manner the adoption of inclusion policies addressed to individuals with different capabilities.

As previously mentioned, this chapter only includes the most well-known and widely spread programs in the Region, as the wide range of

programs that are part of this component shows a great diversity of features and creativity.

### **C. SPECIAL PROTECTION COMPONENT**

The Special Protection component of the Protection Body is made up of programs aimed to deal with situations where the rights of boys, girls and adolescents have been, or are being seriously violated. It includes various modes, ranging from programs where boys, girls and adolescents are taken care of while remaining with their families, to other cases where, due to the nature of right violation, children should be separated from their families, at least temporarily.

When care is provided to a boy or girl who remains with his/her family, the admission into a program may be requested by the Courts, public or private institutions, or their own families. Nevertheless, when care measures involve taking the boy or girl out from their family environment, their admission into a program requires a judicial or administrative decision with notice to the judiciary.

The programs that are part of the Protection component differ according to social conditions in each country. However, we decided to underscore the following ones:

- a) Temporary foster homes. Whenever a protection measure is taking that involves the separation of the boy or girl from their family, he/she should be temporarily inserted into a foster family. In a first stage, and as provided for in the Convention on the Rights of the Child, the resources for child protection should be looked for within their own family groups (extended family). When such thing is not possible, the participation of another family is looked for.
- b) Temporary institutionalization program. This is the protection option for those boys, girls and adolescents who exclusively for protection reasons should be separated from their families, but who cannot be included in foster home programs due to their health, age, or other

factors, which does not leave any further alternative than taking care of them within an institutional framework.

The modes of these programs are the most ancient in Latin American and Caribbean countries, and have even become the symbol of the so-called "irregular situation doctrine". However, since the Convention was ratified by the countries in the Region, such institutions have undertaken in-depth transformations, turning into places for a more personalized care and adopting the nature of a merely transitory stage.

- c) Care program for children and adolescents in/of the street. The purpose of this type of program is to improve the living conditions of those boys, girls and adolescents in/of the street, that is, children that due to poverty, family conflict and/or exclusion, are expelled into the street, either during part of the day or permanently (children in/of the street).

The aim of this intervention is contributing to the family and social integration of children by strengthening their capabilities and their insertion into socialization agencies for the purpose of reversing their condition of social vulnerability.

It is an external care program (in some cases, a "shelter home" is also available that provides shelter to children requiring care). The common methodology usually consists of the participation of "street educators" who intervene by contacting children, making them aware of the purposes of the program, and performing psycho-social actions aimed to revert this in/of the street situation.

- d) Care program for mistreated and sexually abused children. The intervention in favor of this type of children who have been or are victims of a serious violation of their rights, is aimed to contribute to the remedial process in cases of severe mistreatment and/or sexual abuse, by means of their protection, the facilitation of the process of assuming the significance of their abuse experience, and the strengthening of resources for their psycho-social welfare.

When victimizers are members of the own family group of the children, care may require their isolation from the family, at least temporarily. When that is not the case, care may be provided on an external basis.

- e) Care program on drug-abuse. In general, the users of these programs are adolescents who have started a rising process of drug-addiction for several reasons. The intervention involves actions aimed to provide specific treatment and to achieve rehabilitation and social re-insertion. For such purpose, besides the adolescent's will, the commitment of the family and community environment is required as well.

This is a highly specialized type of intervention that is mainly performed on an external basis (the adolescent's institutionalization will only be required during disintoxication periods, due to the complexity of such situation). In general, intervention combines clinical therapeutic actions together with psycho-social intervention.

- f) Additional specific programs. There are specific situations, defined as "emerging" that require the development of other targeted programs, such as those aimed to the care of the population victim of commercial sexual exploitation, to the eradication of child labor, or to the protection of working adolescents, migrating population, minority groups, etc.
- g) Adoption programs. In general, every country has a very clear legal and administrative framework on the adoption of children, formed by the ratification of international child conventions, the adoption of national legislation, and the development of administrative regulations.

The purpose of an adoption program is to ensure the children who have been deprived of their natural families, the right to live and grow in a permanent family environment providing the necessary care for meeting his/her needs and adequate development.

A program of such nature should ensure the best processes for the selection of adopting families, assistance procedures and follow up mechanisms for each adopted boy and girl.

#### **D. CARE COMPONENT FOR YOUTH IN CONFLICT WITH THE LAW**

This is a specialized component for the care of adolescents who have infringed criminal law. The included measures or programs arise from the existence of codes or laws on youth criminal liability in place in each country, or, in the case of those countries where no related legal provisions exist, from special programs different from the protection programs, which should desirably apply under the United Nations international regulatory framework.

Adolescents may be admitted into such programs by a decision to be adopted subject to a truly full compliance of the due process.

##### **a) Admission, diagnose and referral center**

The Diagnose centers for convicted adolescents that were already mentioned in the paragraph on the Admission component, play an eminently technical role that is supplementary to the judiciary, although in general they operate under the umbrella of the Protection Body.

##### **b) Temporary institutionalization center**

Within the framework of a judicial institutionalization decision, this component should count on a temporary institutionalization service allowing for the adolescent's permanence until the final judicial decision or sentence as resolved by the Court, and provided that the offenses causing the legal proceeding justify freedom deprivation measures.

This service should not only provide for a secure and protected detainment during the investigation of the infringement and until the final judicial decision is taken, but should also offer the adolescent the possibility of

undertaking activities that allow for not viewing freedom deprivation as a mere punishment.

This means that this component should ensure the diagnose and monitoring of the adolescent by means of a health check routine, minimal educational services, nutrition, group or individual recreation, voluntary religious services, juridical information and education on legal and constitutional rights, and a counsel and guidance service.

c) Institutionalization centers

National legislation provides for two modes of institutionalization that restrict freedom of movement. One of them corresponds to the semi-free system, and the other to the institutionalization system with freedom deprivation measures.

Semi-free systems and those called closed or with freedom deprivation measures, will integrate in one single educational perspective, where the distinctive variable will be the absolute presence or not of a physical and regulatory restriction in the use and availability of space by the institutionalized adolescent.

The focus on the physical restrictions for the availability of space by the institutionalized adolescent corresponds to the centers with security measures. The focus on the symbolic restrictions to the availability of such space corresponds to the institutionalization in semi-free centers.

For the purpose of the effective enforcement of the rights set forth in the Convention on the Rights of the Child in connection with these extreme care situations, the duration of both types of institutionalization needs to be pre-determined and limited to the minimal time required from a right-based approach.

The objectives of an institutionalization program, besides meeting the basic needs of adolescents in closed facilities, should promote their capability for being accountable, thus allowing them for assimilating self-knowledge mechanisms and processes and the cognitive and emotional

management of those factors influencing their behavior, as well as the acquisition of expertise and skills that will make feasible their re-insertion process into their community of origin.

d) Community-based educational program

The scope of this program encompasses all those educational measures arising from a specialized judicial decision that involves the permanence of adolescents in their usual framework of family and community coexistence.

Although the program, by its own definition, should adjust to each particular case, it covers a relatively standardized menu of options:

- Accountability-based programs. These programs propose the confrontation of the adolescent -who was made accountable by the Judiciary- to a process of self-acceptance of such accountability and the consequences of infringement, particularly those related to the harm caused on the victim.

Thus, and according to the instruments applied in the alter case, various modes have been developed in this area: those that are already considered as classics, such as freedom on parole and freedom under surveillance, and the most recent ones focused on the interaction with the victim, either as an individual or as a collective subject of aggression.

- Programs focused on supplementary socialization. These programs seek for transferring resources to the youth in order to generate true opportunities aimed to a social and labor insertion.

They cover such approaches as the participation in the formal educational system, for both achieving an alternative literacy and for reaching social insertion, the acquisition of expertise and skills useful for labor insertion, the participation in actual opportunities of insertion in the labor market, the support for identifying and accessing housing solutions, etc.

## **CHAPTER VII INFORMATION SYSTEMS FOR MONITORING RIGHTS AND MANAGING THE NCS**

Besides counting on the required information on the political processes related to children and adolescents (codes, guidelines, laws, executive acts, draft laws, national development plans and others), a National Child System should also count on an integrated information system for its effective and efficient operation. Such system should record the data needed to monitor the respect of the rights to which the population addressed by the national Social Protection System is entitled, and be able to act as a governing entity, including policy design and program implementation at national level among its duties. To that end, the IIN is promoting the implementation of the Child Information System (SIPI) in the Region, as an instrument for complying with these purposes.

Therefore, at the level of the Targeted Protection Services it is necessary to count on updated information on each boy, girl and adolescent involved. These data will allow for becoming acquainted with their individual integral situation as well as that of their families, past interventions, current residence, and required follow up or monitoring actions. The information system should take into account the various risk levels, the different age ranges, and the diverse areas involved in protection and in the integral development of boys, girls and adolescents. It should also record the views of boys, girls and adolescents themselves in all matters concerning their situation.

But the NCS also require the availability of what we have called a National Child Information System, with a database containing the information provided by the CHILDDINFO information system promoted by UNICEF in the Region, besides other data, indicators or statistics by country, and the identification of the needs that might affect child situation. Whoever works in the area of child-related issues should be able

to have a ready access to indicators on health, education, vulnerability, and other issues deemed necessary for policy design and the management of Protection Bodies.

The above mentioned databases should in turn provide for a set of variables in order to build up indicators allowing for a periodic monitoring of the progress achieved by the National Child System in all its levels, components, goal fulfillment, etc.

The framework where child information systems should be included allow for some variation. As described in Table No. 11, this document has chosen to include the National Child Information System within the framework of the National Council or Committee responsible for the rights of children and adolescents, while the Child Information System (SIPI) should operate under the umbrella of the Protection Body.

It should not be disregarded that the information contained on these child-related databases should not be for free use and "browsing", but should be protected in order to avoid the violation of the rights of individuals below 18 years of age as provided for in the Convention, or the statistical secrecy that prevails in almost every country.

## **CHAPTER VIII CONCLUSIONS**

A Prototype of National Child System has been developed for the purpose of becoming a guiding and coordinating framework for the countries in connection with the activities undertaken by the State and the civil society for the benefit of children. In this sense, the defined Prototype does not account for the actual conditions of a particular country, but it constitutes a model for addressing the actual status of policies, programs, parties involved, institutions, and the community in all aspects related to children and adolescents.

This prototype was developed with the participation of the Director General of the IIN, as the head of the process, together with consultants from several countries in the Region and professionals from the Inter-American Children's Institute, who formed a multi-disciplinary team with various approaches and experience resulting from their work with children and adolescents. We understand that the fact of having submitted this process to the Representatives to the Directing Council and regional consultants at a Consultative Meeting, legitimates this work which, although it is not a closed product as stated by the Director General in the Preface, consists of a tool that is available from now on for all those who work at the various institutional levels of national child systems.

The prototype allows for assisting the countries in the Region to undertake diagnose and planning activities concerning the bodies, parties involved, policies and programs concerning child-related issues, taking this Prototype National Child System as the basis for their analysis, in a process which the Inter-American Children's Institute, in its capacity as specialized organization of the OAS, is willing to support by means of its technical assistance.

Finally, we are convinced that the joint action of governments, international organizations, and the civil society, including children and

adolescents themselves, is the key element for the design and implementation of public policies and programs for children and adolescents that may adapt to the various realities, needs and demands, while ensuring them the protection and repair of those rights which, unfortunately, are violated.