

**GRUPO DE INICIATIVA NACIONAL POR LOS DERECHOS DEL NIÑO
GIN - PERU
[NATIONAL INITIATIVE GROUP ON THE RIGHTS OF THE CHILD
GIN - PERU]**

EXECUTIVE SUMMARY

**REPORT ON THE SITUATION OF CHILDREN AND ADOLESCENTS IN PERU -
1999**

I. THE SITUATION IN PERU

1. 1. PERU IS A MULTICULTURAL SOCIETY

Peru is a country where more than one third of the population live in rural areas. Children and adolescents are more than half the population and live, mainly, in rural areas. Peruvian society is multicultural, ethnically and language wise.

This diversity, far from being a source of enrichment is the cause of exclusion and discrimination.

1. 2. THE POVERTY IN PERU AND REGIONAL INEQUALITIES

More than half the population and sixty per cent of the children live in poverty, that is, they subsist on 1 dollar a day. So far, 14% of the population are under extreme poverty standards, that is, close to 3 and a half million inhabitants, of which 2 million are children and adolescents.

Out of this group of extreme poor, the great majority has hardly an informal or temporary job. Most of the breadwinners have only primary schooling, more than half, live in precarious housing with no basic services and 40% speak quechua or other native languages.

There are deep regional and social inequalities. The average figures hide the great inequalities that affect departments areas in the mountains and jungle, specially in rural areas. Infant and maternal mortality and malnutrition is greater in these areas, as well as increasing school absenteeism and desertion

1.3. ECONOMIC AND SOCIAL POLICIES DO NOT FAVOUR THE QUALITY OF LIFE OF THE POPULATION

The structural adjustment policy set forth in 1990, was grounded on the belief that economic recovery stemming from a stable and liberal state was to improve the social situation of the great majority. (Report, Social Watch, 1998)

In recent years, the country's economy has shown improvement on a macroeconomic level, a low rate of inflation, an increase in the GDP and accumulation of international reserves. However, employment is at its lowest and peoples' income and social differences grow deeper.

Although social investment has experienced a progressive increase, social policies have an assistance and emergency approach, focusing on infrastructure, which impairs the country's and the peoples' sustainable development

The social program takes into account Basic Health, Basic Education and Basic Justice. The strategy focuses in alleviating poverty, it intends to reduce extreme poverty in 50% in 419 districts out of 2,000 districts in the country. Family Planning and Reproductive Health Services focuses on birth control surgery. These programs do not bear, necessarily, on improving household income and a better quality of live for the population.

II. GENERAL MEASURES IN APPLYING THE U.N. CONVENTION ON THE RIGHTS OF THE CHILD

2.1. NORMS ON THE RIGHTS OF THE CHILD

The Convention of the Rights of the Child in Peru, as well as International Treaties with regards to human rights are not, currently on a constitutional level in the new 1993 Political Constitution.

Peru adjusted the Convention to its internal juridical order by approving the Child and Adolescent Code in 1992. This Code assumes a comprehensive protective doctrine with regards to the child and includes also, principles concerning the Best Interest of the Child and No Discrimination. It incorporates the right of survival, development, protection and participation.

This Code establishes the creation of special administrative and judicial institutions, it assigns responsibilities and powers of central, regional and local governments and sets forth the participation of private and community organisations.

With regards to economic, social and cultural rights, regardless of achievements attained, there are a number of economic and social obstacles that impeach progress toward the universalisation of these rights.

Non abidance by international and domestic laws with regards to child and adolescent labour continues. The right to a job for adolescents over 12 and factual legalisation of child labour show an obvious contradiction with regards to the WLO Convention subscribed by the Government. There is continuous non compliance with labour habits that are dangerous for children and adolescents, no respect for work hours, right to education and the right to health services.

With regards to rights and guaranties for adolescents that have committed a fault or crime, we can witness a set back concerning regulations, when Congress passed, Decree Laws 895 and 899 in 1998. The former concerns "aggravated terrorism reducing liability age from 18 to 16 and assigning a 25-year sentence for adolescents, imprisonment in jails for adult prisoners and judged in military courts. The latter, regards "pernicious gang-type behaviour" which increases to 6 years incarceration measures for adolescents between 12 and 17 years old.

2..2. *INSTITUTIONALISING CHILD PROTECTION*

There has been progress in setting up special administrative and judicial instances, such as the Family Courts; the Child and Adolescent Ombudsman Offices in several local city councils and in the community; and a Police Division which specialises in children. The drawbacks of these instances refer to their limited scope in inland provinces, their poor training and lack of budgetary resources.

We have also witnessed uncoordinated progress and set backs when structuring the National System for a Comprehensive Attention of Children and Adolescents (a ruling entity) as an autonomous instance, designing and applying policies, as well as promoting participation of private organisations. This first ruling entity was created after three years of having passed the Code of Children and it lasted one year under the responsibility of the Ministry of the Presidency. It had established a Mixed Board of 6 Government representatives and 5 civil society members. Unfortunately, civil organisations were not prepared to complete the nomination of their candidates.

Later, this ruling entity's functions were transferred to the Ministry of Women Promotion and Human Development (PROMUDEH), disintegrating the Mixed Board and eliminating the possibility of an institutionalised space for concerted action between the State and the civil society.

Only late in 1998, a Ruling Entity Co-ordinating Commission is created. Its has consulting functions and is formed by PROMUDEH, Education and Health Sectors, the Judicial Power, the Catholic Pastoral for Children and the National Initiative Group on the Rights of the Child, GIN. Such Commission has been of an informative nature.

There is great neglect in decentralising the Ruling Entities on Child Attention, both local and region wise. Only in the last two years, there have been Management Committees being organised in reference to Local Plans of Action for Children en 45 city councils among 2,200 in existence in the country.

2.3. *SOCIAL POLICIES ADDRESSING THE CHILD*

The National Plan of Action for the Child 1992 - 1995, was able to accomplish partly, its goals, mainly due to budgetary allocation problems. The major achievements were in extending coverage to the areas of health and education. There are little results when dealing with goals regarding protection of children at risk.

The goal of the National Plan of Action for the Child 1996 - 2000, is to reduce infant mortality, maternal mortality, chronic malnutrition, to widen access to safe water and sewer services, to extend coverage and improve education services and to improve promotion and protection of children at risk. To comply with this Plan, a 12 million soles budget has been projected and shall be executed in the next five-year period. This represents between an 8% and 12% of the annual country's General Budget which is not sufficient to meet proposed targets.

III. CIVIL RIGHTS OF THE CHILD

3.1. RESPECT FOR THE CHILD'S OPINION

In general, in the administration of justice, the idea of "listening to children up to 12 years old and to take into account the opinion of teenagers" has been accepted, In different places, such as the school, the neighbourhood, NGO's programs, the opinion of a child is being enhanced gradually, although it is not being taken into account by the State as in civil society. This fact shows that there are many cultural difficulties when accepting a child as a social subject with his own rights.

3.2.. ACCESS TO PERTINENT INFORMATION

Access to the media is growing, however, the quality of the programming is not contributing to the education regarding rights and values of children, teenagers, and the society in general. Also, there have been cases of illegal exposure of children and adolescents. There is a lack of control by the authorities.

3.3. THE RIGHT NOT TO BE SUBJECT OF TORTURES OR OF CRUEL, INHUMANE OR DEGRADING TEATMENT OR SENTENCES.

A culture of ill-treatment with regards to children is widely extended in society and is present in different social strata. 50% of children state being beaten.

There is no one single register to report claims of ill-treatment in the country. The Ombudsman Office has received close to 30,000 cases, and 17% of these are on physical beatings. Reports on sexual abuse is increasing.

Conditioning factors or grounds related to child ill-treatment are problems such as lack of income, lack of employment, conventional upbringing patterns and a child object perception.

Child ill-treatment goes beyond the family scope. There are multiple reports of ill-treatment in schools. Likewise, when reports of forceful military service were known whereby teenagers are summoned to serve, ill-treatment in the barracks were also reported..

IV. THE FAMILY SCOPE

A family situation where most of the children grow up shows a number of shortfalls affecting unfavourably their development:

* A situation of ***POVERTY*** covers near half the country's population. Open unemployment is 9.4% and underemployment rises to 74.3%.

* ***POOR HOUSING CONDITIONS and A LIMITED ACCESS TO BASIC SERVICES*** do not favour a proper environment for the child's health and development.

* ***A LOW DEGREE OF SCHOOLING OF THE PARENTS***, with 4 or 5 years of studies has a relative direct relation with regards to children's care and education quality.

* ***WOMEN LABOUR AND LACK OF INFANT DAY CARE SERVICES***, has a direct influence in a child's attention. Only 3% has access to institutionalised day care services. Working women have lost rights that formerly protected maternity and breast feeding.

* Likewise, there is an increase of ***INTRAFAMILY VIOLENCE***, through ill-treatment against women and children.

V. THE RIGHT TO HEALTH AND WELFARE

The basic content of a Reform proposal with regards to health establishes that citizens have the right to health prevention and promotion, but not to individual medical attention, as it was established in the General Health Act of 1997. Hospitals and first tier health establishments have been transferred to entities with independent legal capacity, in order to reduce Government expenses and with the idea of motivating competition, efficiency and quality of services. Through this measure, a great portion of the national medical attention will follow the offer and demand rule.

5. 1. Infant Mortality

Infant mortality has been reduced in recent years, mainly in urban areas. Currently there are 43 deaths out of one thousand born alive. However, in rural areas, mortality fluctuates between 62 and 109 per thousand infants born alive (the same level as urban areas, 20 years ago).

Mortality in children under 5 years is 59 from a thousand born alive. The main cause of infant mortality is related to the following factors: poor attention at child birth and perinatal period (50%), lack of prenatal attention, acute respiratory infection (ARI); avoidable reproductive risk and acute diarrheic diseases, associated to child malnutrition.

5.2. Chronic Malnutrition and Breast feeding

Several studies have shown that near 30% of children under 5 and almost half the children between 6 and 9, show a chronic malnutrition condition as a result of a deficit in nutritious food and/or previous acute malnutrition condition affecting the child's growth and limiting his intellectual capacities. The highest level of chronic malnutrition is seen in the rural areas, 41% in the mountain and jungle area.

Poverty is the underlying cause of malnutrition, it impedes access to food. Other causes are inadequate infant feeding practices, such as giving up exclusive breast feeding, infants being introduced to inadequate diets and inadequate feeding during respiratory and diarrheic diseases.

Cancellation of rights, such as a former mandatory provision whereby work facilities were to include day care services for their employees' children and the one-hour a day leave to breast feed are acting against child care and feeding.

5.3. Mental Health

In the last two decades, mental health problems have increased among the population and among children, as a result of family social and economic conditions. The internal armed conflict and intra family violence have had psychosocial effects that are contributing to this situation. The National Mental Health Plan has been partially implemented due, basically, to lack of budgetary resources.

VI. RIGHT TO AN EDUCATION

Education in Peru faces a very serious problem, it lacks a system and it is not integrated. There is no comprehensive reform on the educational system since the 70's that would ensure a quality education for our childhood. A contributing factor is a poor teacher labour and salary situation

Another factor that influences quality education is the drastic reduction of school hours per year. Currently, there are 900 hours of formal school, nonetheless, effective hours are only 450, if we take into account half semester vacation, holidays, recess hours. In rural communities, school hours are reduced to 250 hours per year.

Between years 1996 and 1998, we have witnessed a reduction in public expense in education and this year, it could be worse. Government investment in education has not been addressing quality improvement, efficiency and fairness. There are big regional gaps in education in the country, school poverty is highly significant. At present, investment in public schools is \$174 per student, of which 24% is family contribution. That means that education is not free.

6.1. Early Education for Children under 3 years

One of the highest deficits in Education refers to early stimulation among children under three. Provision of services only reach 3% of this child segment population. Also, services are limited, essentially, to keeping the child under custody due to lack of trained personnel.

6.2. Early Childhood Education - Pre School

The new curriculum poses the need to articulate early childhood education and primary education. It proposes the widespread of early childhood education for five year olds as an effort in modernising education. The purpose is to contribute in reducing late entrance indicators, repeating and desertion. 65% of poor children do not have access to school services in early education and near half of the teachers lack a professional degree.

6.3. Primary Education

A curriculum reform intended to emphasise new learning methods and capacity development. This reform was undertaken throughout the country without any technical and structural support that should have back-up a sound educational policy.

School enrolment reached 93% in 1997. However, this percentage is less in rural and native Andean and Amazon communities. According to a Mid-period Balance Report, the Year 2000 National Plan of Action for the Child shows a decrease for 1998, being 91.1%.

School desertion reaches 20.8% in rural areas, particularly among girls. Late school enrolment covers more than half the students, being higher in rural areas (70.2%). Performance falls behind in rural areas because curricular structure does not take into account cultural and local features.

More than half a million children in primary education combine their schooling with labour. This situations places them on a serious educational drawback.

5.4. High Education for Minors

Between 1993 and 1997, similar to primary education, the rate of enrolment between twelve and sixteen years was relatively high (84.8%). However, according to a Mid-period Balance Report, the National Plan of Action for the Child, high school coverage was significantly reduced in 1998, being 56.2%.

School slow performance is significant in rural areas, reaching 59% of all students. There are 370,199 (21.7%) teenagers that work aside while attending high school. To a great extent, school desertion is caused by remunerated work.

At age 17, youngsters should have approved 11 years of schooling. Nevertheless, the general average is 8.7; in urban areas it is 9.4 and in rural areas only 6.5 years. Boys tend to average more school years in relation to girls. Only 30.5% of the youngsters has access to higher education.

6.5. Bilingual and Intercultural Education

It is evident that there is a lack of willingness in implementing the guidelines of a Bilingual and Intercultural Education. Most of our school authorities have been educated within conventional and traditional school patterns, under a uniform educational perception, underestimating native cultural expressions, tending to a cultural melting pot. This is an obstacle for rural children's stay in school.

VII. SPECIAL PROTECTIVE MEASURES: BOYS, GIRLS AND TEENAGERS EXPOSED TO HIGH RISK SITUATIONS

Boys, Girls and Teenage Workers

The right to work starts at age 12 and it recognises labour for children under 12, if there is need for it. This provision contradicts the World Labour Organisation Agreements subscribed by the State which determines that 15 is the minimum age.

Extreme poverty, decrease of adult employment and loss of purchasing power, as well as cultural patterns, force children and teenagers to work often in dangerous conditions. In 1996, the record shows that 1'900,000 children worked, of this number, 25% were under 12.

The effects of child and teenage labour is seen in health problems, school desertion and school performance falling behind. The most frequent health issues are chronic malnutrition, back problems or injuries, nervous system alterations, allergies, exposure to tetanus.

Concerning household remunerated labour for teenagers, protective measures provides for a period of 12 continuous hours of rest which also means that a teenager is capable of working 12 continuous hours without it being illegal. There is no data concerning household remunerated work.

Night work hours by teenagers is legally banned. The application and abidance by this legal provision is not supervised by the authorities. There are thousands of children and adolescents working night hours.

Likewise, working underground and handling excessive weight is also prohibited. It is known that there is an undetermined number of children and teenagers working more than 10-continuous hours a day in gold mines, carrying and lifting in quarries, in brick production and in city dumps.

The Year 2000 National Plan of Action for the Child has set forth targets that shall eliminate child work progressively, and shall eradicate 100% any dangerous jobs for teenagers, shall regulate minimum age and social security and shall supervise that adolescent labour is performed free of health and educational risks.

Following a Memorandum of Understanding subscribed between the WLO and the Peruvian State, a National Committee to Eradicate Child Labour was created. By late 1998, this Committee filed a Plan on Child Labour that has not been approved yet.

Children and Teenagers on the Streets

Estimates are that between 1,500 and 2,000 boys and girls, ages 7 through 13, live on the streets, exposed to multiple risks. All of them start inhaling drugs and consuming alcohol, they develop anti-social behaviour and the girls are introduced to prostitution. The major cause of their expulsion onto the streets is associated with extreme poverty and continuous family violence.

Teenage Mothers

13% of teenage girls between 15 and 19 are already single mothers or are pregnant for the first time. Pregnancy among teenagers is higher in rural areas (25.5%), and even higher in the jungles area (31%). Teenage pregnancy is directly related to their educational level, girls who have been excluded from the school system. This is also the result of very little sexual education and responsible parenthood.

Adolescents and violence

Violence among young people has increased significantly Teenagers are getting involved in school gangs, neighbourhood gangs and wild soccer-fan gangs. There are more than 4,000 teenagers involved in these actions. In the Family Court records of Lima there are 1,744 cases reported in 1995 of faults committed by teenagers. Close to 27% of teenagers between 15 and 17 years do not work nor study. Statements given by youngsters involved in these acts of violence, indicate that their main problem is the lack of access to school and to work, family disintegration and violence.

Boys, Girls, and Adolescents displaced and victims of an armed conflict

The consequences of the armed conflict affected more than half the population. The cost in human lives was 25,000 deaths, 2,000 disappeared, 600 thousand displaced by force, of which 350,000 are children, thousands of orphans and forceful recruitment of children. No comprehensive policy has been designed to assist the population that has been affected by violence. Major interest has been placed in the return of displaced families to their communities of origin, but results have proven insufficient due to a lack of incentives in agriculture production and in rebuilding their houses.

Boys, girls and adolescents with some type of disability

Many children and teenagers with some type of disability are still being badly treated or are physically and psychologically ill treated. Special programs for these problems have limited coverage with regards to a demand representing 80,000 cases.

Boys and Girls in Conflict with Justice

Passing Legislative Decree No. 895, on aggravated terrorism, has meant that concerning adolescents' rights and guaranties, we have fallen behind. This legal provision reduces the age for imputable crime from 18 to 16 years of age, legal action to be seen before a military court, 25-year incarceration and imprisonment in jails for adults. Likewise, Legislative Decree No. 899, which refers to malicious gang-type behaviour, considers incarceration as the only measure possible, the same that has been increased to 6 years in jail.

Boys and Girls in Amazon Native Communities.

One of the most excluded nation is the Amazon communities; affected by extreme poverty, infant mortality, malnutrition and low school level. The population of native communities is 299,218 inhabitants. Regular services do not reach this population and the school system does not have a bilingual and inter cultural program that may respond to their cultural, social, economic, and ethnic expectations.

Forceful military service

In recent years there has been constant reports on forceful recruitment of boys under 18 and ill-treatment in the barracks. As a result of these acts, a law was passed banning forceful recruitment. However, these are still being applied.

With regards to Military Service, various sectors in Congress, as well as non governmental organisations, have filed proposals in order to modify the Law and to consider the military service a voluntary act; to cancel advanced military service for boys under 18 and to provide for a minimum age, that of 18. Likewise, support is being gained for the approval of an Optional Protocol in order to increase to 18, the minimum age to participate in armed confrontations, modifying Article 38 of the Charter on the Rights of the Child.

RECOMMENDATIONS

1. TP IMPROVE THE QUALITY OF LIVE OF THE POPULATION, SPECIALLY THE CHILDREN'S.

The economic growth of the country should focus on improving the standards of living of the population in general, and especially, the life of children and adolescents. Also, as important is the promotion of employment and adult income; appropriate housing conditions and extension of basic services; an extended coverage and improvement of health, nutrition and educational quality services. More attention should be paid to rural populations, specially children, in the cost, mountain and jungle area.

2. RULE ENFORCEMENT

Abidance by the UN Convention on the Rights of the Child, also the Child and Adolescent Code and the various international pacts and covenants that guaranty the rights of the child and the adolescent. To ensure the absolute application of the rights and protective measures for children and young people exposed to risk, such as those who work, who live on the streets, who are affected by political violence, children with any disability, youngsters who commit faults. Legislative Decree No. 895 on "aggravated terrorism" should be derogated, as well as Legislative Decree 899 on "malicious gang-type behaviour" that threaten the rights and guaranties of youngsters in fault, and former modified articles of the Code of Child and Adolescents must be restored.

3. FULFILLMENT OF THE NATIONAL CHILDHOOD ACTION PLAN GOALS

To assure fulfilment of the National Plan of Action for the Child goals, specially those that due to lack of resources are in risk of being forgotten; such as to improve education quality at all levels of the educational system, decrease of infant and maternal mortality, decrease of chronic malnutrition for children under 5, improvement of protective policies and program for working children, children living on the streets, violence prevention for children affected by political violence.

4. INSTITUTIONALISATION WITH CIVIL SOCIETY'S PARTICIPATION

To institutionalise spaces where to agree and decide between the State and the Civil Society, in designing, monitoring and evaluating policies. Interest should be placed on the proposal filed by the Board of the National System of Comprehensive Assistance for Children and Adolescents, sharing responsibility between the State and the Civil Society. Creation of Ruling Local and Regional Entities to decide on the Childhood Action Plan.

5. TO PROMOTE CIVIL RIGHTS OF THE CHILD

To promote child and adolescent participation and opinion, from their own organisational experience, in their community and school. To take into account the opinion of the child in any decision that shall affect him. To promote a good-treatment culture, to eradicate child and adolescent ill-treatment in any scope. To extend and improve Child Ombudsman Offices, and special assistance services for children who are ill-treated and sexually abused.

6. RIGHT TO FULL HEALTH

To reduce infant and maternal mortality, extending and improving the quality of prenatal and perinatal health services in order to prevent and reduce infant and maternal mortality. To adjust health perceptions acknowledging cultural patterns of the population.

To strengthen nourishment and to reduce chronic malnutrition, of children under 5 and through child health control programs, day care centres, early childhood education and women organisations. To promote exclusive breast feeding up to 6 months of age and to ratify Infant Feeding Regulation and Trading Rules on Substitute Baby Formulas.

To promote mental health care, of children and adolescents in the family, school and community, stimulating good treatment, communication, praising any progress, and providing support to overcome difficulties, respecting their culture, their personal characteristic, their play spaces and maximising their capacities and abilities.

7. A QUALITY EDUCATION THAT PROMOTES RESPECT TO CULTURAL DIVERSITY

To extend coverage and to improve school quality, adjusting it to their geographical and cultural diversity and allocating more investment. To promote entrance to school according to their age. To extend school hours, at least to complete a 1,200 hour schedule. To ensure that students complete at least 11 years of schooling. To increase teenage access to higher education or to intermediate education to allow more possibilities of entering the labour market. To improve significantly, labour and wage conditions of teachers.

8. EMERGENCY MEASURES TO PROTECT AND ASSIST CHILDREN AND ADOLESCENTS EXPOSED TO SITUATIONS OF RISK.

To approve and to implement the execution of the National Plan to Eradicate *Child Labour* and Protection of the Adolescent Labour in order to comply with provisions of the Child and Adolescent Code and the goals set by the National Plan of Action for the Child, placing priority in eliminating dangerous work for children and adolescents, to regulate minimum age requirement to work, to guaranty social security and education.

To develop prevention and protective policies for *Children living on the streets*, promoting their social, educational and family reinsertion.

To extend services in specialised attention on *child ill treatment and sexual abuse*, as well as to improve the quality of services at the Child Ombudsman Offices, Also important is the promotion of preventive actions with regard to the former.

Design of comprehensive policies for families and *Children, victims of an armed conflict* that should consider the reconstruction of their community, their productive development and psychosocial support.

Children in conflict with justice. Derogation of Legislative Decrees 899 and 895 that go against the rights and guaranties of youngsters in fault.

To promote sport, cultural programs and intermediate labour training within a municipal scope and addressing **adolescents** that are neither studying nor working or that have incurred in violence and antisocial acts. To promote information and protection programs for **teenage mothers**.

To promote community and municipal programs to assist children and adolescents suffering of some disability, whether physical or mental that should strengthen their reinsertion in primary school and to maximise the development of his potentials and self-esteem.

The *military service*, must be declared a voluntary act and provide young boys with the option of civil community service as well. To establish that 18 is the minimum for a volunteer military service. To promote the passing of an Optional Protocol, establishing 18 as the minimum age to participate in an armed conflict and in the military service, modifying Article 38 on the Convention on the Rights of the Child that sets forth 15 as the minimum age to participate in an armed confrontation.

Boys and girls in the Amazon. To promote full access to health, nutrition educational intercultural and bilingual services in order to reduce significantly, mortality, malnutrition and a higher access to school.