



Asamblea Permanente por los Derechos Humanos

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Situation of the Rights of Children and Adolescents in Argentina

The **Permanent Assembly for Human Rights (APDH)** welcomes the Committee on the Rights of the Child and extends, on the occasion of its 54th session when it will consider the report submitted by the Argentine State, the following information regarding the situation of the rights of children and adolescents in the country.

Socio-demographic data of the Institute of Statistics and Censuses of the Argentine Republic (INDEC)

It is appropriate to highlight that INDEC's official statistics included in the Argentine State report (poverty, income distribution, unemployment, school attendance, child labor, etc.) have been questioned by various sectors of society. Changes in the structure of the INDEC and in the ways of measuring those indicators make at least questionable to use such statistics to account for the reality of childhood in the country. Moreover, as a strategic base both for indicating progress and for designing public policies that are considered relevant to implement, modify, reduce or enlarge.

Paragraphs 802-804: Sexual Education

Despite the improvements in the law on sexual education, as well as its declaration as an essential issue in the development of children and adolescents, and its incorporation into the curriculum, the APDH notices that teachers deal with the subject at schools in a very diverse way according to the interests and values of each institution. This is due to the lack of an implementation of the law meant for its practical application in classrooms.

The APDH still observes either a reluctance to approach the subject or an approach from a biological and non comprehensive view, thereby undermining the spirit of the teaching of values, which should be taken into account for a comprehensive education of the individual as an individual in process of instruction (the law refers to ethical, psychophysical and social morality education).

In another vein, with reference to abuse, the APDH notes a lack of greater visibility and awareness within the teaching community to assume the issue as their own and understand that denouncing cases of this kind is the duty of all. We propose a greater visibility of the

topic of child abuse and trafficking through campaigns, advertisements, etc. that contribute to publicize the issue.

Furthermore, efforts in campaigns and awareness on sexual education should be intensified in the education sphere in order to prevent unwanted teenage pregnancy.

Paragraphs 573-600: Reproductive Health Program

Unwanted teenage pregnancy is a consequence of the lack of sexual education throughout the country. The APDH observes the need to redouble efforts to broadening the universe towards which government actions regarding sexual education are intended and to optimizing their scope and effectiveness. Additionally, within the education sphere, efforts in campaigns and awareness on the subject should be intensified.

Paragraphs 329-337: The Right of the Child to be heard and his/her views to be taken into account

The APDH notices obstacles to the full exercise of this right. In general, they can be seen in administrative offices (schools, hospitals, etc.) and seriously in judicial branches, where the implementation of the old patronage law by judges is still a common practice.

For example, in the Corrientes Province, judges refused to a sexually abused child the possibility of extending her testimony, saying they did not want to fall into a re-victimization of the victim. However, she had expressed the psychologist of the case (as stated in the Court's professional report) her need to speak again, to express herself and to expand her testimony¹.

A usually widespread practice throughout the country consists in the re-linkage of abused children with the abuser without having heard them properly nor taken prior action. This happens while abuses have already been verified through the expert examinations required for the case, and so far cases which are fully proceeding do not evidence a child protection that considers him/her the main pillar to protect.

Furthermore, the APDH notes a lack of shelters for properly dealing with special cases that require promptness in emergency care. The APDH points out as an example the case of girls victims of human trafficking, who do not receive an adequate assistance shelter suitable for their case.

¹ The case happened in Goya, Corrientes Province, and the appeal is being processed in Mercedes, Corrientes Province. It is cited only as an example of the behavior of various legal operators, which is far from the Best Interest of the Child Paradigm.

Paragraphs 166 and 347: Emergency, urgent and assistance cases regarding children at risk of abuse, exploitation, trafficking, etc.

In situations of children at risk, it is important to point out that the state's presence is essential not only in immediate assistance but also in long-term aid and support. Not only is it necessary to remove children from situations of exploitation, but also to include the reconstruction of their environment and/or the strengthening to guarantee their development and cancel any possibility of their becoming victims of exploitation again. The APDH considers it important to strengthen these public mechanisms to achieve a better support of children at risk.

The Children at Risk Assistance Program (*ProAme*), mentioned in the report, ended in 2006. *ProAme* played an important role in promoting and protecting the rights of the child, and up to date, no actions have been implemented that pursue similar objectives. The APDH suggests its reinstatement, since the characteristics of the target population have not disappeared and so its termination is not justified.

Paragraphs 256-263: Community Integration Centres (CICs)

The *CICs*, community centers under the Ministry of Social Development, whose aim is social welfare in neighborhoods, do not have suitable and sufficient human resources for assisting children and adolescents victims of abuse, mistreat, addiction and exploitation. Although they were created to aid children at risk, the unique role they fulfill is referring cases to hospitals, where children are assisted according to their medical profile and there is no relief or long-term emotional support for such cases.

Paragraphs 46-60 / 264: Implementation of Law 26.061 -Best Interest of the Child²-

Law No. 26.061 “Best Interest of the Child” aims to provide a comprehensive protection of the rights of children and adolescents in Argentina. It guarantees an effective and permanent exercise and enjoyment of their rights, as enshrined in the international treaties that the Argentine State has ratified. However, the implementation of this law presents alarming characteristics.

The APDH notices with grave concern an incomplete and operationally inadequate implementation of Law 26.061 in Argentine provinces.

The APDH notices a need to raise awareness and provide training to the key state actors involved in the implementation and management of policies and actions related to children.

² Best Interest of Children and Adolescents means the highest comprehensive satisfaction, simultaneous to the rights and guarantees recognized in Law 26.061.

Legal and administrative practitioners continue being governed by “patriarchal” guidelines, and ignoring the rights included in the Convention on the Rights of the Child and the provisions of National Law 26.061, which is positioned under the paradigm of the best interest of the child. Specifically, the idea of linking the intervention of the state towards the child as a synonym of a problem and not as a subject of rights still remains.

Furthermore, the APDH notes the lack of institutes to represent and defend the rights of children (paragraphs 65-71), which are foreseen by the law, and an unreasonable delay in the creation of the *Instituto Defensor de los derechos de los niños, niñas y adolescentes* (the Rights of Children and Adolescents Ombudsman).

Delay on issues that should have prompt action to defend and protect children

The APDH notices an alarming bureaucratic delay, and a dehumanizing treatment from Security Forces towards the victims of potential child trafficking, drug addiction and/or various types of abuse perpetrated by adults. The APDH requests the Committee to encourage the state to create clear protocols that outline a basic approach to the Act and react to these issues. It is important that protocols include provisions on how Security Forces should deal with these issues in a respectful and discrete manner, explaining procedures and transparency in actions.

With regards to transparency, the APDH notes with concern the following practice which occurs in cases of child trafficking in which civil society organizations first assisted the victims: when the victim arrives to judicial headquarters, he/she is separated from the organization which, from then onwards, does not know about her/his whereabouts nor has any participation or saying on the rehabilitation, assistance and social reintegration of the victim. This situation and the obscurity surrounding the areas related to the enforcement of victim’s rights (as foreseen by Law 26.364) are of our concern.

Paragraphs 812-837: Child labor

Firstly, the APDH observes that vulnerability of certain sectors of the Argentine population is a fertile ground for social problems to advance, such as child labor exploitation.

The APDH notices that, despite the actions specified by the State (paragraphs 830-887), the use of children as a banner for the fumigation of the fields (Entre Ríos, La Pampa, Santa Fe), and their use in the harvest of potatoes and tomatoes (Corrientes, Mendoza), among other “jobs”, still persist.

Some of the programs included in the report of the Argentine State, as the case of the Child Development Centers, which could ultimately alleviate the mentioned problems, have neither sufficient visibility nor resources to do so.

Paragraphs 888-924: Human Trafficking Act

The APDH is alarmed by the lack of a clear state policy against human exploitation.

The APDH notices with concern the situation of children and adolescents victims of human trafficking. Every day we learn about new cases of children and adolescents who were kidnapped and put to work in brothels across the country. These children are enslaved, drugged and raped in brothels operating in collusion with Security Forces in the area. Child victims of trafficking are usually supplied false identification documents with older ages, so that they are not identified as minors.

Law No. 26.364 on the Prevention and Punishment of Human Trafficking and Assistance to Victims, which in its article 3 defines trafficking of children as those under 18 years old, was enacted two years ago. However, up to date, the law is still to be implemented. Therefore, the promise to create institutes to prevent and assist victims of trafficking and to allocate adequate resources to do so is yet to be fulfilled.

The prevention and care program 746/07 ended only six months after it had started, without any alternative public policies to succeed it. The Fiscal Unit for the Investigation of Crimes against Sexual Integrity, Human Trafficking and Child Prostitution (*UFI*) has also been dissolved, and was merged with another *UFI*, specialized in extortive kidnapping and trafficking. Human trafficking is an issue that deserves a specific and exclusive consideration; therefore the treatment of trafficking by security forces as the exclusive agents of intervention is seen as negative.

To fight this scourge, the APDH considers important, though not unique, the focus known as the “Triple Frontier” (as is known the border between Brazil, Argentina and Paraguay). Through that frontier, agents of organized crime, in connivance with staff of the Security Forces, enter children into Argentina for their sexual exploitation.

The National Network *Infancia Robada*, composed by social forums and coordinated by Sister Martha Pelloni, works in cases of child victims of domestic and foreign trafficking. The network confirmed that girls rescued from brothels were later housed in prison units for women. This situation uncovers what has previously been raised regarding the lack of implementation of the law, in particular relating to the absence of institutes to house and assist children victims of trafficking.

Paragraphs 276-309: Non discrimination

High level discriminatory situation remains against foreign children and adolescents, especially from Argentina’s bordering countries, at educative communities, clubs, etc. by their own colleagues and the whole educative community in general. This can be more intensely observed in Ciudad Autónoma de Buenos Aires, and at the communities with higher vulnerability, although it is not a unique case.

Therefore, surveillance efforts should be redoubling on the children situation, in order to avoid discrimination and to reach a specific public policy on this matter, focused on values of integration and respect.

Paragraphs 661-665: Children and young pensioners

The disability pensions given by the Argentinean authorities to the young healthy people are considered as a way to alleviate poverty and represent “Healthy youth with disability certificate”.

The subsidies are important to relieve the extreme poverty and social marginality that affects several children in the country, but it is also part of their inclusion within the educational system, to avoid segregation, and including them into society.

There is a need for public policies aiming to the contention and inclusion of children and adolescents in situation of poverty and marginality along the national territory, and not directed to the segregation and permanent invalidation as a way to get immersed in the labor market.

Paragraphs 361-368: Right to identity

The APDH sees the need of new design of concrete operational tools such as application protocols, to raise the margins to guarantee the identity of children at birth.

The APDH observes well structured traffic chains of babies, including notes (with the support of several agents in the health system, the registries, etc.) where the children are written under the name of the appropriators (cases of Santiago del Estero, Corrientes, Misiones).

Other regular practice noted, has to do with the use of public registries as tools of future adoption expedients where taking advance of vulnerable situations, the biological mother decide to give the baby away immediately after birth to the appropriators. All this under the consent of judges, psychologists, notaries, etc. (case of Santiago del Estero).

Children in vulnerable situations

The APDH observes cases of physical batter and mental abuse, the operative difficulty that Children and Adolescent have at the time to access to assistance and rehabilitation.

From concrete experience, we could see that the police station No. 5 of Buenos Aires Province has *non-official* files which are useful to identify suspects. This files have a great amount of children pictures, between 10 and 12 years old, how where perceived red-handed in a public plaza, seated at a house threshold, etc.

The APDH is concerned about this particular situation, and is alert of this not to become a habit between the Police Stations around Buenos Aires.

The vulnerable situation lived by children and adolescents is on behalf of security forces. As an example, “drunken” youngsters are picked up from the streets during the weekend, and taken to Police Stations where they are brutally hit by police officers. This is a common and regular activity in some police stations from the provinces of Buenos Aires, Chaco and Corrientes.

The APDH observes deficiencies or lack of resources orientated to the administrations in order to deal with social affairs; this is due to the abandon of their initial destinations to aid childhood situations.

The APDH has also appreciated that the restitution of infringed rights, from the family reconstruction, is only possible with the disposition of human sources which make possible this job.

Even tough, trying with the opposite, the APDH often sees that the commitment is the opposite to what is established in article 41 of Law 26.061, that establishes as a priority the assistance and contention by familiar spheres considered as an alternative for the children and adolescents.

Paragraphs 898-901: Victims Against Violence Program

The APDH wishes to express its preoccupation on behalf of the implementation of the program *las víctimas contra las violencias*³, whose intention is to prepare with techniques for conflict resolution and violence eradication. This was born as a national program but, due to operational and budget matters, it did not get a complete national scope. There were cases, as in the provinces of Río Negro and Corrientes, where there was showed not to have jurisdiction to execute the program, even if it was a program made by a National Ministry.

Thus, it is necessary to stress that the “*Brigadas Móviles de Atención y Asistencia a Víctimas de Violencia Sexual*” are who assist the victims, take care of raids and report sexual crimes. These brigades are composed by social workers and psychologists as well as security forces. The action of the brigades joint to the security forces acting on sensible issues as sexual integrity is alarming, since the attention to victims is faced from a security perspective, and blurs what it should be tackled from a Human Rights perspective.

³ The purpose of the training is to provide conceptual, methodological and technical tools for conflict resolution and eradication of violence, based on prevention, assistance and follow-up of victims of violence, dealing with three cross cutting themes: operationally intervene in the circle violence, empower victims and denounce the aggressor.

National Secretariat for Childhood, Adolescence and Family⁴ on the issue of drug-taking by minors

The APDH observes a lack of articulation with the efforts made by the civil society and the resources designated to tackle the problem of drugs consumption by children and adolescents.

The articulation of efforts with civil society is extremely low, since the study presented by *Madres en Lucha* in paragraph 618, only corresponds to an association which covers only one neighborhood of greater Buenos Aires.

In addition, it is alarming the lack of resources of the National Undersecretary's Office of Childhood to face and tackle issues as drugs in children.

To conclude, it is our obligation to say that most of the provinces do not have Institutes and do not take the necessary actions needed to tackle addiction in children and adolescents.

APDH
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⁴ The National Secretariat of Childhood, Adolescence and Family (SENAF), is a governmental dependence that depends at the same time of the National Ministry of Social Development.