

Colombia
Ministry of Health
Colombian National Institute of Family Welfare
Report Prepared for Submission to the Regional Congress on Sexual Exploitation of Children

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The XXth century saw the birth of social and political concerns for Colombian children's welfare in the belief that children are the future of our country. From the beginning of the XXth century until 1989 when the Convention of the Rights of the Child was signed, States became aware of the need to create political and social mechanisms for the full development of children and to take measures against violence affecting our children.

However, children's irregular situations with regards to the Government, and the justification of protecting neglected children or criminals give rise to unlimited government intervention – at times compassionate and others repressive - in the life of these children. Putting children away, as the basic intervention alternative, is based on a tendency to attribute its causes to pathologies instead of structural problems. Social exclusion is therefore dealt with in legal spheres instead of solving the problem via social policies for children.

The Convention on the Rights of the Child is the worldwide political, legal and cultural milestone and the most important one from the point of view of the relationship between the State, adults and children, since it proclaims that each and every child is a citizen and has rights. Furthermore, children's integral protection, defined as the guarantee of integration to the social network, is now considered as a shared responsibility of the State, society and the family.

In Colombia, special protection of children has evolved through different stages. The first

type of protection was an altruistic response, characterized by compassion, originated in Christian charity and solidarity; the next stage was the need to care for these children; and then to create institutions - such as the Ministry of Social Care; to reach the creation of the Colombian Institute of Family Welfare (ICBF), as the agency in charge of family and child care.

The 1991 National Constitution stipulates that Colombia is "a social state of rights organized as a republic: unitary, decentralized with autonomous decentralized agencies, democratic, participative and pluralist, based on the respect of human dignity, work and solidarity of its inhabitants and the prevalence of a general objective".

The Constitution provides that the goal of the State is Colombian's welfare. It further calls for integral participation of three actors: the State, Colombian citizens and social institutions that represent Civil Society. The Constitution stipulates the mechanisms for democratic participation; it defines human beings as the epicenter of rights: the social goal of the State, and conceives power in a democratic way and subject to the law. The Constitution considers rights as constitutional precepts, and organizes them according to universal tradition in the following categories: Fundamental Rights; Social, Economic and Cultural Rights; and Social and Environmental Rights.

The Constitution provides for Human Dignity, a universal concept, conceiving the human being as an end in him/herself, and the objectives of a human being by virtue of liberty,

equality, autonomy and will, all of which should be established autonomously and never imposed by somebody else.

The Declaration on the Right to Development adopted by United Nations General Assembly, resolution 411128 dated 4 December 1986, will serve as our starting point. There follows a transcription of Sections 1 and 2 of said Declaration.

“The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized... it also implies the full realization of the right of peoples to self-determination, which includes, ... the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.”

Along these lines, we should emphasize creating and developing subjects, society, and the State. Amartya Senn defines development as “broadening the scope of human rights, liberties and franchises. A successful economy or society is thoroughly dependent of the lives of its members. Therefore, quality of life should be defined not only in terms of how we actually live, but also according to the alternatives we have”¹

In consequence, the human liberties approach is in sharp contrast to that of future development, as those that identify development with GDP growth, or with expansion of trade, industrialization or technological achievements.

The latter are relevant as the Means conducive to a broadening of the liberties of society members. However, social and economic institutions (health, education, recreation), and civil and political rights (freedom to participate in decision making and electoral processes)

are main the determinants of liberties. Conceiving development in terms of broadening liberties focuses our attention to the ends of development and not its means.

If broadening human liberties to lead the life that each individual believes is right is emphasized, economic growth in broadening opportunities should be integrated to a deeper understanding of development processes, as the broadening of Human Capacities to lead a more honorable life.

Human Capacities should be understood as broader than human capital, as the latter conceives human attributes as a function of economic growth. Therefore, the ultimate end of development should be the human being.

Considering the need for structural solutions that modify the existing pattern of social relationships, a State public policy regarding children and families is needed. There is a need to promote a new social order based on the principles of justice and real equality of the members of society where all of them are treated as respectable human beings.

In consequence, there is a need for new visions and the formulation of new strategies, restoring at the same time public morale based on justice that will enable us to integrate all social sectors in an all-encompassing “we”.

In order to implement this new vision that will modify national structures so that they acknowledge the rights of the child, and on the other hand, will consider children as a concern of the State, with clear and defined policies for implementation and adaptation at local level and emphasizing investment from the national level to the local one, stressing the need for social programs, the Colombian Government proposes intervention at three levels:

- An approach from the cultural and everyday life of society generating mechanisms and skills to strengthen social, familial and community capaci-

¹ Amartya Senn, *Invertir en la infancia*, Conferencia BID, 2000

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ties in order to provide children with an opportunity to fully develop.

- Provide support to families, children and adolescents in those cases where their situation makes them vulnerable.
- To intervene aiming at giving opportunities and providing care in conflictive and vulnerable situations to avoid deterioration of their skills and possibilities, and for restitution actions in those cases lacking options that guarantee their full development as human beings with rights.

Consequently there is a proposal to coordinate childcare and family institutions in the National System for Family Welfare, SNBF. SNBF is in this sense a social and institutional network that facilitates the enforcement of the State's right to participation, the responsibility of the family and their joint responsibility along with society as a whole for a true enforcement of rights.

The system is open, dynamic and participative and interacts permanently with the social reality of communities and social groups through coordinated and integral actions in pursuit of family welfare.

The **Mission** is to provide a family welfare public service to strengthen family ties, ensure and support the enforcement of their member's rights, tutelage of rights and to provide children and families with protection.

Families, socialization child environments, society as a whole (namely communities, the private sector and NGOs), territorial agencies and all institutions charged with the provision of family welfare as a public service, are **actors** and **key players**.

Regarding development of children and family policies, the operation of SNBF is where social, private and public organizations coordinate actions, policies, programs and services, promotion of social initiatives, strengthen inte-

gration of all actors to enforce the rights of children and families.

SNBF is then intended to establish a horizontal relationship between different levels and institutions so as to facilitate decentralization, participation, social solidarity and agreement. At the same time SNBF will enhance and maximize efficient utilization of allocated resources to social development and family welfare, and shall promote local planning capable of taking action when faced to specific situations of families and children in their diverse socio-cultural environments.

The present social conflict, aggravated by the international situation, uncontrolled economic liberalization, implementation of economic models unsuitable for Colombia, drug trafficking, terrorism, and guerrilla groups, make consolidation of a new State and new social relationships among public officers more difficult. Nonetheless there are opportunities to advance in its development and implementation.

International legislation and implementation of acknowledgement tools of the rights of children by United Nations, and the organization's requests on countries, lead to globalization of provisions. It results in unified criteria to fight against children's scourges of different legislations and in increased and improved planning, coordination and cooperation at national and international levels.

By way of example, in the past years the issues dealt at international level include the fight against commercial sexual exploitation of children and adolescents.

The Stockholm Agenda for Action includes pledges of delegates of attending countries with regards to prevention of commercial sexual exploitation of children and adolescents and care for their victims.

In Colombia, the Agenda has resulted in cooperation of several national, regional and local government agencies, civil society and

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communities to promotion, defense and guarantee of the rights of children. Cooperation efforts seek to modify the concepts of individuals, introducing new elements towards a culture of children's rights, their condition and their relationships with adults.

Political support has been necessary for Municipal, Departmental and Central Government officers to include in their Development Programs, the necessary resources to implement a public policy suitable for local needs, that includes promotion, prevention and care programs for children and youths, specially those who have been victims of different types of sexual exploitation, i.e. prostitution, sexual tourism, child pornography and trafficking in children.

Based on the aforementioned, ICBF has participated in government programs and policies and in different inter-institutional coordination efforts at local, regional and national levels, always aiming at defending, guaranteeing and/or reinstating the rights of Colombian children. Furthermore, along with other actors of the National System of Family Welfare, it has participated in:

1. The Inter-institutional ²Committee for the Fight against Trafficking in Children and Women, established in 1996 under the Ministry of Law and Justice. The Committee serves as the national consultative agency and coordinates development actions to fight against trafficking, exploitation, and sexual abuse of children and women. As of this date, the Technical Secretariat of the Ministry of Law and Justice chairs the committee.

The Committee has prepared a "Program on Prevention and Protection of Victims and Re-

pression of Trafficking in Persons" for implementation from 1999 to 2002. Women and children are its target population – specially vulnerable groups, and provides for 5 strategies: 1. prevention, 2. repression and granting legal characterization, 3. to care for and protect victims, 4. international cooperation, and 5. mass media. The program is already implemented and each agency conducts activities according to their capacities. As of this date, an NGO, with national and international funds, is working on training of public officers with regards to prevention and care for victims of trafficking in women and children.

2. Project on Design and Implementation of Integral and Inter-institutional care models for victims of sexual crimes: the project aims at preparing, validating and normalizing care models for victims of sexual crimes with the cooperation of the National System of Family Welfare at regional and municipal levels, thus empowering inter-institutional, inter-sectoral and interdisciplinary cooperation. A seminar was held to exchange regional and international experiences as far as administration of justice, health, education and protection. The State Attorney's Office, ICBF, Legal Medicine and Forensic Sciences Department, National Police, Bogota's Mayor Office and Minsalud signed an inter-institutional cooperation agreement, aimed at joining efforts for the provision of integral care to victims of sexual crimes. Furthermore, we are working on the implementation of an information campaign aimed at facilitating prevention of sexual crimes.
3. Care for Victims of Sexual Exploitation Project: through specialized NGOs. In general the care process has three stages³ at social, community and institu-

² Committee members are: ICBF, Ministry of Foreign Affairs, DAS, National Police, Colombian State Attorney's Office, Prosecuting Attorney's Office, Public Defender's Office, National Vital Statistics Office, INTERPOL Colombia, and the National Gender Board.

³ (i) Approach and Sensitization to enter the program. It implies surveillance and evaluation to detect geographical areas and types of sexual trade. Observation allows us to identify street children and suspected links to push children into the program, initial contact, i.e. meeting and communication of

tional levels: 1. approach and sensitization to the project, 2 Ambulatory Care Center, and 3. Transitory and Permanent Shelters.

4. Project on quality standards of integral care processes: agreement with NGO that seeks to improve care quality in those institutions that provide Family Welfare Public Services, from the point of view of rights.
5. The Action Plan for the Rights of Sexually Exploited Children and against Child Sexual Exploitation will foster socio-cultural changes that will enable us to rethink social conceptions on children and adolescents, to put a stop to abuse and social exclusion processes and to sexual exploitation, to strengthen the State's capacity to tackle the issue, to raise awareness of laws in force and to mobilize resources.

In September 1997 the ICBF with support from the Universidad Externado of Colombia, UNESCO and other state agencies, defined the Plan. It proposes several activities that imply participation of all governmental and non-governmental sectors in sensitization and information via mass media so as to prevent facilitating factors. It also contains designing and implementation of a Surveillance and Control System through Police and community

educators and children and keeping their company, interactions that occur after the initial contact using pedagogical strategies to attract the children into the program.

- (ii) Ambulatory Care Center where there are meetings, dialogues and direct interaction of children with institutional educators so as to visualize each case and their relationship with the streets, sexual exploitation, drug abuse and the possibilities for change.
- (iii) Transitory and Permanent Shelter. The child is sheltered and induced into the program aimed at therapeutic support that involves reconstruction of their personal history, family participation, formal education and job training, and preparing the child for his/her quitting the shelter with a life project that will enable his/her reinsertion into society and his/her family.

actions, and Child Care Systems modeled on returning the rights of children and adolescents. The Plan also contemplates the legal aspects, integrating legal and regulatory, national and international frameworks regarding the protection and guarantee of children's rights; and a research line that proposes development of studies that contribute to understanding this phenomena and new prevention and care strategies; and lastly an institutional line that proposes strengthening of governmental institutions with regards to material, human and logistical aspects thus ensuring and effective participation of the State in solving the problem. The Plan was developed independently, taking into account each institution's scope of action, but as of this date, its impact is yet to be assessed.

6. Promotion of the Rights of children, Implementation of the National System of Family Welfare. The ICBF is committed to achieving a culture in favor of children that recognizes its different manifestations, that generates the proper conditions to its potential development and one that guarantees the full enforcement of its rights. Along these lines, we have already undertaken the development of a: Welfare Support Programs aimed at strengthening the family and the community so that they may fulfill their respective tasks, and b. Specialized Intervention Programs in returning the trampled rights of children and adolescents in cooperation with SNBF entities. Actually achieving the full enforcement of the rights of children calls for committed and active participation of all actors: the State, the Family and society in general, as the constitutional principle establishes with "co-responsibility". The different municipalities throughout the country have already decided to discuss the issue and to include in local or departmental projects all achievements with regards to children's rights.
7. Law 360 of 1997 provides for the development of mechanisms and legal instruments regarding crimes against sexual

- freedom and human dignity, that will ensure the enforceability to all State agencies of abiding by the rights of the victims of sexual crimes. Said law also contains the amendments to the Criminal Code increasing convictions, defining the rights of victims, setting institutional competences for enforcement purposes, provides for the creation of Special Units of the National Attorney's Office with its technical research team in charge in this type of crimes, and parole is forbidden⁴.
8. Resolution No. 563 dated July 1997, providing the frame for protection of Tourism that enables the Operational Division of the Ministry of Economic Development to impose the administrative sanctions provided for in Section 72 of Law 300, 1996, to those who provide tourism services that promote, permit or foster either directly or indirectly prostitution of minors in their activities, notwithstanding the criminal sanctions that may be applicable. Likewise, the Ethical Code for tourism and hotels is created.
 9. Law 470, 1998, approving the "Inter-American Convention on International Trafficking in Minors", with the ICBF as the central authority, aimed at protecting fundamental rights and the interest of the minor.
 10. Colombia having signed ILO's Convention 182 on the worst forms of child labor, has designed and implemented a national plan on eradication of child labor. As a result the inclusion of children in the ranks of armed groups has been brought to the negotiation rounds.
 11. Law No. 679 of 3 August 2001, creating a "Statute to Prevent and Counteract Prostitution, Child Pornography and Sex Tourism with Minors". The law is aimed at providing protective measures against exploitation, pornography, sex tourism and other types of sexual abuse involving minors through preventive provisions and sanctions, the generation of resources and passing of laws. Recently the inter-institutional committees in charge of its regulation and enforcement were created.
 12. Law bills currently being drafted: several law bills aimed at facilitating processes and imposing the corresponding sanctions are nowadays either in Congress or already at government level, inter alia:
 - Project to amend the Minor's Code in the light of integral protection and with a perspective of the rights of the child. It implies participation of all public and particular government levels, in order to achieve harmonious cooperation to successfully protect integrally children and adolescents in their family and community environments and exceptionally in institutional environments. It is aimed at ensuring a more effective enforcement of the rights of children and adolescents and modifies administrative and judicial treatment of the criminal minor. The bill is nowadays being discussed.

⁴ In cases of illicit commercial exploitation, illegal deprivation of freedom, torture, abusive carnal intercourse when the victim is unable to resist, sexual acts with persons under 14 years of age, induction or restraining in prostitution, dealing in persons, stimulating prostitution with minors, lesions with functional or psychic perturbation.

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