21\textsuperscript{st} Pan American Child Congress

DRAFT AGENDA

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Presentation

The Inter-American Children’s Institute is an OAS Specialized Organization and has a wide experience in promoting and defending the rights of children in the region. It receives mandates that issue from the Summits of the Americas, the General Assembly and the Permanent Council. The Institute’s own authorities are the Directing Council and the Pan American Child Congress, both composed of senior authorities specializing in children from the Americas and the Caribbean. The Directing Council meets yearly, pursuant to the Institute’s statutes, and holds extraordinary meetings if the states consider it advisable.

The Pan American Congress meets every five years and promotes the sharing of experience and knowledge in specialized subjects among the member states of the Inter-American System, in order to establish a regional agenda for the development of the promotion and protection of children in the Americas and the Caribbean.

Since 1916, the Pan American Congresses have been instances of dialogue, reflection and communication in which progress in fulfilling the rights of children and adolescents made by States in the hemisphere become visible. It represents a space of political and technical character, which allows the analysis of Public Policies, plans, projects and programs of the various governments of each of the Member State of the OAS, and identifies challenges.

The Congresses are attended mainly by ministers, secretaries of state and other senior government authorities with jurisdiction in matters involving children. They may be declared Specialized Inter-American Conferences.

The celebration of the 21st Pan American Congress is being planned for 2014, its key subject proposed is violence against children, under the title: “Childhood and Adolescence: Building a Peaceful Environment”. This way, it is intended to adopt a propositional approach that will reverse the tendency that centrally identifies childhood and adolescence as victim of violence. Rather, it is desired to highlight childhood as subject of rights and open the dialogue from the strengths, the environments of protection, the practices that disseminate harmonic conducts, as well as those aspects that are basic for democratic life and social stability in the States.

The purpose of this paper is to reinforce the significance of the subject proposed, as well as to describe methodological aspects of the Congress. In addition, it provides a summary of events and proceedings that will accompany the development of this regional meeting. To this end, delegates are invited to reflect and
agree on the key elements that facilitate the organization of the event and the implementation of collaborative strategies, as well as on positioning the agenda within the principal areas of decision-making for the benefit of children.

1. **Methodology**

The agenda and the rules of procedure will be submitted to your approval at the 88th Meeting of the Directing Council to be held in Medellín, Colombia in September 2013. In accordance with established procedure, the agenda for both the Regular Meeting of the Directing Council and the 21st Pan American Congress will be remitted to the General Secretariat of the OAS and to the Permanent Council for their comments and to ensure the appropriate level of coordination.

In addition, in the case of the Pan American Congress, other specialized OAS organizations will also be consulted, as well as the General Assembly Secretariat and the President of the Permanent Council, in order to enquire whether there are other subjects or matters that they wish to include in the Congress’s draft agenda.

It is proposed that the focus of the 21st Pan American Child Congress should be on aspects of major influence, incidence and emphasis against violence against children, in view of the fact that the 25th anniversary of the Convention on the Rights of the Child is approaching. In addition, it is suggested that two particular areas of violence should be stressed, which are included in the IIN’s Action Plan 2011-2015: adolescents in conflict with the law and criminal liability systems, as well as the sexual exploitation of children.

The World Report on Violence against Children pinpointed the different manifestations of violence and their presence in areas where children and adolescents are involved. On the basis of this situational survey, the recommendations arising from the study promoted the organization of new opportunities and joint efforts by the international community and engaged the commitment of State governments. At present, intensive work has been promoted in order to fulfil three of the recommendations of the Study that refer to inter-institutional coordination, the prohibition of any form of violence and information gathering.

As regards adolescents in conflict with the law, there is still an important task to be addressed by protection and justice systems, in order to reaffirm adolescents as holders of rights, in acknowledgement of their dignity as persons and their living conditions.

Among extreme forms of violence, sexual exploitation is endowed with a particular significance that drives governments to maintain constant surveillance and the firm intention of immediately eradicating it. The IIN
has promoted the dissemination of practices to combat and confront this problem, appealing to professionalization and technical assistance for the States.

A mainstreaming feature of the 21st Congress will involve content aimed exclusively at the States; that is, reflection will aim at an in-depth consideration of aspects related to institutional management, the challenges facing governments, or the State’s intersectoral dynamics, so that every presentation can represent a specific contribution to the reality experienced by the heads of department in their daily quest to promote and protect child rights. In the expositions of the Congress, it will also seek a revision of the way in which the State promotes the co-responsibility with children and adolescents, as well as with the families, the communities and society as a whole, being a fundamental aspect in the implementation of Public Policies.

The Congress will comprise three days’ work including conferences, expert panels and presentations on the States’ practices, as well as interventions by children participating in the 2nd Pan American Child Forum, an event that will be held parallel to the Congress. It is also suggested that an “information fair” be organized, in order to enable the dissemination of information regarding child-related state organizations in the region.
The structure of the Congress will include public sessions; that is, for participants in general and private sessions for members of the Directing Council.

a) Preliminary Session; private – Tuesday: 89th Meeting of the Directing Council
b) Opening Session; public – Wednesday: Opening Session of the 21st PACC
c) General Plenary Sessions; public – Wednesday, Thursday, Friday: Conferences, Experts Panels, States’ Presentations, Information Fair
d) Heads of Delegation Plenary Sessions; private – Friday: Plenary Session, adoption of resolutions
e) Closing Session; public – Friday: Conclusions and Closing Session

Based on this perspective, the presentation dynamics is considered as follows:

Conferences will be held in Plenary Sessions with the objective of acting as an introduction to debate. They will situate discussion within a broad context in which the principal topics and areas of interest to the States will be underscored. One speaker will be invited per conference, who in 45 minutes will enable discussion by providing a conceptual definition, establishing frameworks of reference and referring to the principal recommendations and goals stated in international treaties. Speakers will also provide descriptive information regarding the situation of childhood, reflecting the regional context, as well as that of high priority sub regions.

Experts Panels

Presented by means of a Plenary Session, each expert panel will contribute an analysis of the key aspects in each subject. They will be sixty minutes long and will consist of three experts and one moderator, who will be responsible for encouraging discussion between speakers and participants and in addition, will highlight the principal aspects posed in the various interventions when giving his or her conclusions.

Dialogue and States Expositions

The States will have the opportunity to present their institutions’ significant experiences from an analytical viewpoint, allowing participants to incorporate lessons by focusing on lessons learned, management challenges and the positive aspects that cause them to promote the implementation of these experiences. Applicable experiences to urban and rural zones may be presented, with special mention to the aspects of
co-responsibility between the State and Families. They will be organized into three concurrent sessions, each of them with 2 States plus a moderator, with a duration of ninety minutes.

The expositions of the States will be a moment for major opening for dialogue between the participants, since it is expected to generate in the end of each table an interaction between attendants for the development of a reflexion and agreements in the analyzed areas. With the support of the moderators conclusions will be written for the rest of participants of the Congress.

The purpose of the fair will be to share information about the programmes offered by the States with Congress participants. An area will be set aside for stands, to be staffed by representatives of the governments that wish to take part. The fair will be open to the general public and will be formally opened on the first day, with a closing ceremony at the end of the Congress. It will provide an opportunity to exhibit papers, audiovisual items and all kinds of reference material to help learn about the institutions that are part of the Member States.

(2nd Pan American Child Forum)
The Pan American Forum will be part of the 21st Pan American Congress, in compliance with Directing Council resolution CD/RES. 07(83-R/08). It will constitute an occasion for participation where children will have the opportunity to make their voices heard at one of the highest-level events on child-related subjects in the Inter-American System.

Adolescents from all of the States will attend and participate in discussion groups, creative events for self-expression and cultural exchange, as well as recreational events. The Forum will open together with the Congress and have the same duration.
For the realization of the 2\textsuperscript{nd} Pan American Forum, considerations will be taken into account specially, the following issues:

- Protagonist participation of children and adolescents in the development of the Forum, with the end that the activities to be appropriate, specific and flexible for them.
- Establishment of previous processes of training and selection of the adolescents that will integrate the delegations, headed by the technical liaisons of the States.
- Security of the adolescents during the Forum through the establishment of protocols and recognized standards.
- Establish guidelines for the relation of the adolescents with communication media.

Non-Governmental Organizations Forum

The OAS provides a special place for the intervention of civil society in its activities. Article 26 of its Democratic Charter states that “The OAS will consult and cooperate on an ongoing basis with member states and take into account the contributions of civil society organizations [...]”. In this respect, the purpose of the NGO forum will be to generate an agreement and consensus framework with the collaborators of the States’ institutions and the IIN for the promotion and protection of child rights. Of particular note is the participation of recognized international agencies. NGOs will meet independently and prior to the Congress, with the participation of IIN and OAS authorities. Their contributions will be contained in the conclusions that will be presented to the States during the Congress.

2. Regulations and Proceedings

The official documents that give structure to and describe the Pan American Congress are: agenda, rules of procedure and draft resolution.

- The agenda\textsuperscript{1} describes the contents of the programme.
- The purpose of the rules of procedure is to determine the competencies and functions of the authorities, the representatives of the delegation, observers and general participants, and regulates procedures in order to reach the Congress’s expected outcomes.
- A draft resolution represents an objective it is hoped to achieve during the course of the Congress and composing it in advance makes it possible to reach improved agreement regarding consensus and scope of content.

Rules of Procedure\textsuperscript{2}

\textsuperscript{1} (Art. 40.4, IIN Rules of Procedure) The Director General shall coordinate the preparation of the draft agenda of the Congress, which shall be approved by the Directing Council and submitted to the Permanent Council of the OAS for observations. Any observations so received shall be considered by the Congress prior to the final approval of the agenda.

\textsuperscript{2} (Art. 40.1 and 40.2 IIN Rules of Procedure) The Congress has its own Rules of Procedure adopted by the Council following the recommendations contained in Resolution CP/RES. 76 (B4/72) of the Permanent Council of the OAS,
The Directing Council of the IIN shall adopt rules of procedure to govern the 21\textsuperscript{st} Congress. These rules shall contain provisions regarding:

- Purpose and Scope
- Nature and purpose of the 21\textsuperscript{st} Pan American Child Congress
- Participants
- Authorities
- Committees
- Secretariat
- Sessions
- Discussion and decision-making procedures
- 2\textsuperscript{nd} Pan American Child Forum

**Draft Resolutions**

*The Directing Council* shall adopt resolutions\textsuperscript{3} that contain decisions made in relation to the election of its authorities and the three-name shortlist to select the Institute’s Director General.

In the case of the 21\textsuperscript{st} Pan American Congress, a drafting and consultation process will be set in motion prior to the Congress, in order to reach it with a unified resolution on the subjects of the 21\textsuperscript{st} Congress.

The resolution shall attempt to establish proposals and guidelines to support the States in their work on the subjects addressed during the Congress. In both cases, the appropriate formal resolutions shall be adopted.

\textsuperscript{3} (Art. 23 IIN Statutes) Article 23 Quorum and Voting. The provisions on quorum and voting provided for in Articles 14 and 15 also apply to the Pan American Congresses, unless the Rules of Procedure of the Congress provides otherwise. Article 14 Quorum. A quorum consisting of one third of the member states of the Institute is required to open the sessions. Decision-making – including the adoption of resolutions – requires a quorum consisting of a majority of the member states of the Directing Council. Article 15 Voting. The Council will adopt all its decisions by consensus or voting. Voting will be governed by the following provisions, in accordance with the Rules of Procedure: a. Those decisions approving, affecting or amending the adopted Strategic Plan, Program-Budget, this Statute and the Rules of Procedure of the Institute, shall require vote of a majority of the member states; b. Decisions on procedural matters, on the adjournment or suspension of the session, on the approval or amendment of the agenda once adopted, on a new consideration of issues already decided upon in the meeting, on closing the debate, and on raising a point of order, will be taken by the number of votes specified in the Rules of Procedure; c. Any other decision – including the election of the President and Vice President of the Directing Council and the nomination of the three candidates for the position of Director General – shall require the vote of a majority of the member states present at the time of voting, provided the quorum requirement is satisfied.
The following procedures are proposed in relation to attending the 21st Congress, with a particular focus on the **convocation** and constitution of **delegations**. Logistics issues such as accommodation, meals and transport will be notified when the IIN sends out its invitations, as well as through the means available for publicizing the Congress.

**Convocation**

Both the 89th Regular Meeting of the Directing Council and the 21st Pan American Congress shall be convened in a timely manner in view of the significance of both events and in accordance with the relevant regulations. Both convocations shall be remitted to the Principal and Alternate Representatives of the States to the Directing Council of the IIN via electronic means. General Congress participants shall be convened in the manner that the host State deems appropriate.

**Delegations**

Delegations to the 89th Meeting of the Directing Council shall be composed of the Principal and/or Alternate Representatives, in accordance with the Statutes and Rules of Procedure of the IIN.

In the case of the 21st Pan American Congress, delegations may be composed of several delegates, with the Principal Representative acting as Head of Delegation. Delegations shall be composed of a maximum number of 10 delegates. In both cases, the constitution of the delegations shall be informed in writing by the relevant Foreign Offices. Any adolescent who are part of a delegation shall be between 12 and 17 years of age.

**Procedures for the Election of Authorities**

The heads of delegation gathered in the preliminary plenary session at the 89th Meeting of the Council shall elect their authorities for the duration of the Congress. In the case of the Directing Council, it is already headed by a President and a Vice President.

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4 (Art. 21 IIN Statutes) Frequency and Convening. The Congress shall meet every five years as convened by the Directing council in accordance with the procedure set forth in Article 9 (g) in this Statute and the pertinent provisions of the Rules of Procedure, for the purpose of establishing guidelines for IIN activities until the next Congress. (Article 9 Functions. The functions of the Directing Council are: [...] To determine the venues and dates of the Pan American Congresses on Children; to adopt their draft agendas and rules of procedure, and to inform the Permanent Council accordingly in compliance with Article 17 in the Standards for Inter-American Conferences provided for in Resolution AG/RES. 87 (II-O/72) and Article 8 in the OAS-Institute Agreement of 14 November, 1975; [...]])

5 Article 20 Members. All member states are entitled to be represented at the Congress. Each member state has the right to one vote. The delegates of each state should be Ministers, Secretaries of State or other senior government officials with competence on the relevant subject-matter in their respective states.
The Directing Council meeting shall include in its agenda, in accordance with the Statutes and Rules of Procedure, the election of the President and Vice President of the Directing Council for the period 2014-2016, as well as the three-name shortlist of candidates to the position of Director General of the IIN for 2015-2019.

The 21st Congress shall be presided over by a President, that will be designated by the host State, and in the same way a Vice-President.

3. Significance of the Subject Matter

The following section provides a description of the matters that it is proposed should be addressed at the Congress, with an overview of the relevant considerations and aspects that make up each item of the contents.

**Twenty-Five Years after the adoption of the Convention on the Rights of the Child (CRC): Building a Peaceful Environment**

Our invitation to reflect upon the scope and incorporation of the Convention in the States of the region begins by acknowledging the contributions that for 25 years this treaty has made to areas such as the interpretation of human rights, daily dynamics, institutional and state management and other fields. It is essential to analyse these considerations when addressing government efforts to prevent, prohibit, combat, attend, protect and sanction violence against children, inasmuch as any infringement of their rights and well-being is rooted with any way of manifesting violence. Placing the subject at the centre of the 21st Pan American Congress implies making an in-depth review of this period marked by the paradigm of the Convention, as well as incorporating present commitments arising from the recommendations of the Committee on the Rights of the Child and the World Report on Violence against Children.

The Convention on the Rights of the Child introduced a new paradigm which called for a transformation of children’s and adolescents’ place in society, through the formulation, emission, execution, monitoring and evaluations of the public policies of each State. The new paradigm of comprehensive protection is founded in the human rights approach, considers children and adolescents as subjects of rights with capacity to enjoy and demand them to the State, overcoming the doctrine of the irregular situation in which it was sustained the necessities approach, necessities without possibilities of demanding them to the State, who must satisfy and guarantee them.

The CRC quickly became the human rights instrument with the widest international recognition. In the nineties, most of the States in the Inter-American System incorporated the CRC’s guidelines into their national legislations. We should acknowledge that significant steps in the harmonization of the judicial framework to the conventional rules, the same way the State and administrative apparatus were able to
create and modify their structures aiming to consolidate the National Children`s and Adolescents` Protection Systems.

Twenty-five years after that historic event, a quick glance at the reality of the American continent shows the coexistence of progress and challenges in relation to the application of the Convention. The additions to national legislations that took place in the nineties were followed by – in the new century – significant progress regarding the concern exhibited by many of the States in the region to effectively fulfil the commitments undertaken when they ratified the CRC. This is apparent in the instrumentation of public policies sustained on a rights approach, accompanied by a relative increase of investment in childhood.

Within the Inter-American System, the new century began with significant developments involving the consolidation of democracy. The Inter-American Democratic Charter, adopted in Lima on 11 September 2001, gives proof of this by establishing a concept of democracy that transcends forms of government and postulating it as a new way of regulating coexistence between persons, promoting the active exercise of citizenship and underscoring the indissoluble relationship between democracy and a full respect for human rights. This results in focusing primarily on the importance of public policies that lead to overcoming poverty, fostering social inclusion and shortening the inequity gaps that characterize our continent.

The efforts made by both States and civil society have led to significant developments in many aspects. However, an analysis of the harsh social realities of the hemisphere and the policies and institutional practices that attempt to revert them shows an evident gap between regulations and the level of actual realization of the rights of the children of the continent.

Although the ratification of the CRC implies that the State as a whole undertakes the responsibility of guaranteeing rights and acting in consequence, these responsibilities tend to devolve indiscriminately upon the institutions traditionally charged with the protection of children and adolescents, without extending them to the rest of the State’s agencies.

This restricts public policy implementation, internal State coordination and the involvement of society and communities in policies for the protection and promotion of child rights. Ultimately, a lack of consideration has been observed of “the best interests of the child” in overall decisions made at different levels in our societies.

**The Right to Non-Violence according to the Committee on the Rights of the Child**

In its Article 19, the Convention establishes what has become known as the “Right to Non-Violence”:

States Parties shall 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, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
Driven by the alarming extent and intensity of violence committed against children, in 2011, the Committee on the Rights of the Child issued **General Comment 13**, which promotes a global approach to the application of **Article 19**, by giving guidelines to the States Parties to prohibit, prevent and respond to all forms of violence against children.

The Committee interprets the term “all forms of violence” broadly, on the basis of Article 19, as violence “without exceptions”. It describes the different forms of violence in a non-exhaustive list, which includes: neglect or negligent treatment, psychological violence, physical violence, sexual abuse and exploitation, torture and inhuman or degrading treatment, violence among children, self-harm (suicidal thoughts and attempts), harmful practices such as forced marriage, female genital mutilation, etc., violence in the media, violence through information and communication technology.

The Committee on the Rights of the Child includes its interpretation of Article 19 within the wider context of other Convention articles, in particular, its Article 2 (non-discrimination), Article 3 (best interest of the child), Article 6 (life, survival and development), Article 12 (right to be heard), Article 4 (appropriate measures), Article 5 (direction and guidance in line with children’s evolving capacities).

The right to non-violence should be considered within the framework of all the rights that the CRC guarantees for all children. These rights are indivisible, interdependent and complementary as they are interrelated and multiple synergies are established among them – both positively and negatively.

With the purpose of putting protective action into practice, different ways of grouping these rights have been attempted. One of these ways establishes four groups of rights:

- **Rights to existence**: life and health
- **Rights to development**: care, cultural wealth of environments, access to education.
- **Rights to protection**: physical, emotional and social security: protected and decent physical environments, affective bonds that promote safe attachments.
- **Rights to participation**: information, expression, gathering, be heard, be respected in their opinions.

The right to non-violence can be viewed as a right that crosscuts these four groups. Violations jeopardize life, health, development, safety and opportunities to express opinions and viewpoints safely and without fear of reprisals.

With regard to the obligation of States Parties to “take all appropriate legislative, administrative, social and educational measures”, the Committee refers to the broad range of horizontal measures that can be taken by all government sectors, which should be used effectively in order to prevent and respond to all forms of violence.
The Committee on the Rights of the Child and its Rapporteurships have focused strongly on the **national coordination framework** for violence against children and offered recommendations on the development of effective nationwide coordination, as well as elements that should be included, such as resilience and protection, children in potentially vulnerable situations, the allocation of resources and accountability. They have also underscored the need to increase international human, financial and technical resources for the application of these aspects and the need for cross-border regional and international cooperation.

The States of the Inter-American System have taken up many of these recommendations, accordingly with the Inter-American instruments of human rights and the advisory opinion no. OC-17/2002, of the Inter American Court of Human Rights, in which the highest court in human rights matters of the region points: “That the States Party to the American Convention have the duty, pursuant to Articles 19 and 17, in combination with Article 1(1) of that Convention, **to take positive steps to ensure protection of children against mistreatment, whether in their relations with public officials, or in relations among individuals or with non-State entities**”

Among their initiatives, certain specific decisions stand out:

- The enactment of laws that prohibit the corporal punishment of children, particularly in family, educational and institutional settings. The implementation of inter-sectorally coordinated reference and care systems to allow the provision of effective and appropriate responses to the diversity of situations.
- Awareness-raising campaigns that tend to revert the justification of violence as way to resolve conflict.
- Measures tending towards reducing violence in institutions.
- The promotion of areas for children to participate and be heard in the administrative and political decision making spaces as well as in those from the community.
- Actions to strengthen the role of the family as the primary environment for socialization of children and adolescents.
- Indicate to the collective communication media the important social function they must carry to prevent violence.

**Despite these developments, high rates of violence against children persist throughout the continent.** Violence in its different forms and the reactions it gives rise to constitute some of the most visible threats to the achievements of recent years.

**The World Report on Violence against Children**

The report submitted to the General Assembly of the United Nations by Paulo Sergio Pinheiro has made it possible to convey a key message: **no form of violence against children is justifiable and all forms of violence are preventable.** It underlines the fact that this is neither a new nor an unknown problem. It is an issue which is addressed in an inconstant and fragmentary manner. While extreme forms of violence awaken indignation and social condemnation, there a numerous forms of daily violence that tend to be tolerated and even justified by adults. Homes, schools and institutions for protection paradoxically constitute settings in which violence occurs systematically.
The States in the region have been gaining in awareness of the problem’s complexity, of the need to address it with a rights-based approach and generate answers that far from restricting or violating rights, strengthen their enjoyment in equitable conditions.

The report poses twelve recommendations – mainly for governments – referring to their legislative, administrative, judicial and policy-making functions, as well as to the provision of institutions and services. Three of these have been prioritized:

**Recommendation 1**
The creation of national means of coordination for non-violence towards children, and public policies, strategies and comprehensive plans in this area.

**Recommendation 2**
Legislative reform to ensure the protection of all children against all forms of violence.

**Recommendation 11**
The creation of information and data system in support of public policies, strategies and comprehensive plans in this area.

**Building a Peaceful Environment: a Challenge for the States**

On the basis of the two international legal instruments that guide our actions – the CRC and the Inter-American Democratic Charter – we propose the creation of peaceful environments as a strategic challenge in the complex process of moving towards a culture that respects diversity and uses the best interest of the child as one of its guiding principles.

The Inter-American Democratic Charter is emphatic in linking the consolidation of the hemisphere’s democracies to overcoming social gaps and organized crime, and the eradication of violence. Democracy can only be considered in a context of full respect for the human rights of all, including children.

This leads to a number of specific challenges that we shall try to list briefly in the expectation that they shall be analysed in depth and enhanced by the collective work to be carried out at the 21st Pan American Congress.

- An initial challenge is to imbue the respective cultures with the principles of the CRC, so that they can be expressed in the immediate environments in which the children of the Americas are born and grow: their families, schools and communities.
- To this end, it is necessary to promote non-violent forms of conflict resolution, ensuring safety and the value of respecting the dignity of individuals from the beginning of life.
• Develop effective and sustainable public policies for children so that they can achieve an impact on the living conditions of children and their families over prolonged periods.
• Reduce inequity gaps and revert the process of exclusion so that new generations have a clear path to access social integration, promoting values related to work, social responsibility and participation.
• Open opportunities for participation and intergenerational discussion where children can be heard and evolve from being “problem children” to being participants in the search for solutions.
• Revert exploitation, particularly the “worst forms of child labour”, CSEC, and participation in organized crime, and develop programmes for the comprehensive restitution of rights with a view to full social inclusion.
• Deactivate the circuit of violence, particularly as regards criminal violence and punishment, promoting alternatives to deprivation of liberty in the case of offences, in order to develop the potential of adolescents and refrain from strengthening their links to criminal organizations.
• Develop structures and public and private coordination instances, cooperation and articulation in the framework of a National Protection System, that brings congruence, coherence and social cohesion in the satisfaction of the rights catalogue of childhood and adolescence.
• Public budgets and private recourses that achieve to secure the sustainability of the plans, programs, projects and existing and future activities, as well as increase them in each budgetary exercise.
• Insist in the harmonization of the domestic judicial framework of each country according to the conventional rules.

In this context, the need for the massive communication media to develop a major awareness in relation to the social responsibility they have. The production of messages and its massive dissemination have a strong influence on daily life of people, the way they see their surrounding reality, values and parameters from which they think and value facts. In occasions media contribute to amplify violence and construct in the social imaginary “responsible” suppositions generating this way discrimination and responsabilization of the most vulnerable groups, in general, youth and adolescents. But if this power they have in the moment of constructing opinion currents also puts them in conditions of contributing the promotion of non-violent ways of conflict resolution and contribute to the construction of a peace based culture respecting human rights.

In this context, the Inter-American Children’s Institute, as the specialized OAS body for children’s policies, proposes that subject of violence and the creation of a peaceful environment should be the core topic for the 21st Congress, pursuing to constitute it as a space for debate and and the collective construction of proposals to contribute to the difficult, but unavoidable purpose of making the Americas a place where children and adolescents are considered citizens with legal capacity to enjoy and act against the violation of their rights.

**Adolescents in Conflict with the Law and Criminal Liability Systems**

Dealing with violations of criminal law by adolescents has operated under the rationale imposed by juvenile justice models associated with criminal policies promoted with a view to the specific context in each nation (social, political and economic).

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6 In accordance with the rules of procedure of each Member State in the thematic
During the period since the adoption of the Convention on the Rights of the Child, the states of the region have made efforts to implement “special criminal justice systems for adolescents, or juvenile justice systems...” in an attempt to overcome the previous tutelage model. These efforts have included setting processes in motion which seek to develop the guiding principles established by the Convention, particularly in its Articles 37 and 40 (directly related to the rights of children and adolescents who are alleged to have contravened criminal law), as well as in its Articles 2, 3, 4, 6, 12 and 39, and the Inter American Convention of Human Rights, also known as the San José Pact that is by excellence the base document of human rights for the Inter American System with binding character for the Party States (articles: 1, 4 (subsection 5), 5 (especially subsection 5), 7,8,9,19, 24 and 27 (subsection 2)) with the purpose of generating change conducive to implementing specialized systems and of objective responsibility of their acts. Without ceasing to be systems for the administration of justice, these systems organize and coordinate legislation, institutionality and procedures for the State’s response to criminal violations on the part of adolescents. They are governed by the principles of the comprehensive protection doctrine, endowing penalties with a restorative and educational purpose, in order to ensure the best conditions for effective resocialization and social resettlement, making it possible to avoid recidivism.

The “Justice Model” is a post-Convention model which is mainly defined in the continent as a responsibility model. Its inspiration is the Convention and it has been installing itself in Latin America and the Caribbean since the mid-nineties. It has several important characteristics, such as: reinforcing the legal position of adolescents from a guarantee-based perspective; underlining rights and guarantees within a context of due process; judging adolescents in specialized jurisdictions; establishing a catalogue of penalties applied in non-custodial settings and contemplating deprivation of liberty as a last resort.

Elías Carranza and Rita Maxera say that “The period of legislation subsequent to the Convention and adapted to it, is the period of ‘justice’ systems or models, inasmuch as underage persons who infringe criminal law are submitted to a specialized justice system, whose principal guidelines are established by the Convention and the international instruments that complement it”.

The importance of developing and strengthening these systems is a matter that should be positioned in the principal for a for analysis by the States in the region. Because of this, the Pan American Child Congress can be presented as an opportunity to “develop and strengthen the implementation of specialized justice that will guarantee the special protection of children, and implement different forms of dejudicialization and alternatives such as restorative justice”.

The Directing Council of the IIN included this subject as a priority work stream in its Action Plan 2011-2015, and in 2012 issued resolution CD/RES 03 (87-R/12), which urges the States to adopt, consolidate and strengthen their adolescent criminal liability systems. It was proposed that alternative measures be

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9 A model that focuses on repairing the harm caused to the victim of criminal behaviour, as opposed to the retribution theory that views penalties as reparation.
implemented in those systems in order to promote the integration of adolescents subject to such measures, as well as the full enjoyment of their rights and the use of deprivation of liberty as a last resort. The Directing Council’s resolution also reaffirms the importance of public policies to promote the full enjoyment of rights as an essential measure in addressing this problem.

In its country assessments, on several occasions the Committee on the Rights of the Child has also recommended ensuring and reinforcing the implementation of a comprehensive policy for alternative penalties to deprivation of liberty.

It is also essential to consider the work carried out by the Inter-American Commission on Human Rights. In its report on Juvenile Justice and Human Rights in the Americas, chapter IV on Custodial and Non-Custodial Measures, it states that these kinds of measures and their manner of application vary substantially from one country to the next\(^\text{10}\) and identifies probation programmes as the non-custodial penalties or measures most often used in Latin American countries.

The Commission is also troubled by the fact that in some cases, the non-custodial alternatives to deprivation of liberty may violate the principle of proportionality and minimum intervention, by imposing conditions and obligations that involve greater state intervention than the severity of the adolescent’s offence warrants\(^\text{11}\). What the Commission observes may happen, among other reasons, because of the inadequate operation of the programme and definition of objectives and intervention methodologies with the adolescent who is the subject of the measure. In its report, the Commission urges the States to fulfil regulations that provide for the possibility of establishing alternative penalties to deprivation of liberty.

The joint report of 2012 on the prevention of violence against children in the juvenile justice system and measures with which to respond to such violence\(^\text{12}\) recommends strategies to prevent violence against adolescents in juvenile justice systems and how to respond to it. The recommendations mentioned below cover three focal points, which are also mentioned in the report on violence against children, in its overarching recommendations 1, 2, 3 and 11; coordination, regulatory reform, prevention and monitoring.

\(^{10}\) “318. Although these non-custodial measures are available, the Commission is troubled by the fact that the measure most often used in the case of juvenile offenders continues to be incarceration. Non-custodial measures are not used more often because the community programs needed for the children to perform the non-custodial sentences are not available, particularly in rural areas; the funding for the non-custodial programs is not adequate; the authorities responsible for children in conflict with the law do not coordinate with each other; and the mechanisms for supervising compliance with these measures are few.”

\(^{11}\) “323. The Commission is also concerned by the fact that the non-custodial measure ordered for the child may involve a broad spectrum of conditions and obligations, to the point that many children end up facing measures that are much more intrusive than the severity of their offense warrants, in violation of the principle of the proportionality of the sentence and the principle of minimum intervention.”

\(^{12}\) Joint report of the Office of the High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and the Special Representative of the Secretary-General on Violence against Children on prevention of and responses to violence against children within the juvenile justice system; 2012.
In addition, these recommendations are directly related to the subjects proposed for the 21st Pan American Congress.

1. “Preventing children from becoming involved with the juvenile justice system”

- The fewer children there are in the criminal justice system, the lower the risk of their exposure to violence in that system. It is important for States embarking on measures to prevent and respond to violence in the juvenile justice system to ensure that an appropriate environment exists for the primary prevention of children coming into the criminal justice process.

- There is an urgent need to strengthen national child protection systems that can effectively ensure that children’s rights are safeguarded instead of perpetuating the criminalization of children. States should act to prevent the criminalization and penalization of children and reduce the number of children deprived of liberty, […]

- Similarly, States must raise the age of criminal responsibility to a minimum of at least 12 years, continue to increase it, and ensure non-custodial options for children below that age.

2. “Protecting children from all forms of violence within the juvenile justice system and integrating this dimension into the national agenda”

- States are urged to revise their laws, policies and procedures to ensure compliance with international standards and ensure that the process of juvenile justice reform is framed by a child- and gender-sensitive approach, promoting a juvenile justice system that is fair, effective, efficient, and established as a core dimension of the national child protection system.

- In this light, States are urged, through their national legal frameworks, to ensure that the Constitution, or its equivalent, contains key child rights principles and safeguards including the consideration of children’s deprivation of liberty only as a measure of last resort and for the shortest appropriate period of time, […]

- Legislation should contain specific measures to prohibit all forms of violence and effectively protect children.

3. “Ensuring the use of diversion and alternative non-custodial measures as priorities within the juvenile justice system”

- States are urged to develop and use effective alternative mechanisms to formal criminal proceedings that are child- and gender-sensitive, such as restorative justice, mediation, and community-based programmes, including treatment programmes for children with substance abuse problems.

- It is urgent to ensure effective coordination between child justice sectors, different services in charge of law enforcement and the social welfare and education sectors in order to promote the use of diversion and alternative non-custodial measures. Pre-trial diversion and alternative, community-based sentences in conformity with children’s rights should be introduced where they do not exist, and where they do, their scope and application expanded.
4. “Ensuring that the deprivation of liberty is a measure of last resort”

- Every child arrested and deprived of liberty should be brought before a competent authority to examine the legality of this deprivation of liberty within 24 hours. Pre-trial detention should be reviewed regularly, preferably every two weeks. States should introduce the legal provisions necessary to ensure that the court/juvenile judge or other competent body makes a final decision on the charges not later than six months after they have been presented.

5. “Enhancing effective co-ordination mechanisms and cooperation between different services in charge of law enforcement, justice and social welfare”

- States are urged to review law, policy and practical measures to ensure effective coordination and cooperation between child justice sectors, different services in charge of law enforcement and the social welfare and education sectors. To this aim, it is important to clearly delineate the responsibilities of different actors and institutions, to develop mechanisms for formal cooperation between stakeholders, and properly allocate resources.

This process requires to be accompanied by actions on the public opinion that promotes the best way of getting a safe and harmonious coexistence is not through of privation of liberty of a major number of adolescents but promoting alternatives that include the development of capacities of those adolescents for a complete life respecting the rights of others. In this the massive communication media may carry out relevant contributions, for its incidence on public opinion.

In view of the above, it is proposed that the issue of juvenile criminal justice be included on the agenda for the 21st Pan American Child Congress, within the general context of violence, as an opportunity to promote knowledge and the application of alternative measures which have proven to be more beneficial to adolescents and societies.

The Sexual Exploitation of Children

As part of the analysis of violence against children, the effect of the so-called structural forms of violence should likewise be considered: poverty, social exclusion, discrimination, inaccessibility to education and health, malnutrition. To material poverty is added a lack of access to the cultural and symbolic capital of society as a whole, which jeopardizes the “minimum civilizatory factors”, with the resulting decline of social cohesion. Silent and sometimes invisible expressions of these forms of violence are the different kinds of exploitation that victimize a significant number of children in the Americas.

1. Towards the elimination of the worst forms of child labour

Early entry into the labour market gives rise to the so-called “worst forms of child labour” and extreme forms of exploitation. The profiles of these children vary from one region and branch of activity to another. They all come from low-income families with precarious employment and limited ability to protect their children
effectively. For these families, the income generated by their children can satisfy their most pressing and basic needs.

This is, therefore, a highly vulnerable group, in which child labour is associated with other violations of rights, such as child trafficking, irregular migration, maltreatment and other forms of violence and abuse, begging, school desertion, early consumption of psychoactive substances, street migration processes and pseudo-emancipation from their adult caregivers.

The Convention on the Rights of the Child (UN 1989) recognizes the right of children to be protected from any form of economic exploitation and from performing any kind of work that is likely to be harmful to their physical, mental, spiritual, moral and social development (Art. 32, 1).

All of these forms of exploitation comprehensively jeopardize their rights, particularly access to education, non-violence, play and recreation, and health, to point out only the most obvious.

The problem has been provided for in the legislation of the countries in the region and examined at different international fora, which has led to recommendations and commitments undertaken to eradicate it.

Targeting

The 18th Inter-American Conference of Ministers of Labour held in El Salvador in 2011 addressed the subject and reaffirmed the commitment of the countries in the continent to work in coordination towards the eradication of the worst forms of child labour.

In the Declaration of San Salvador (2011), the hemisphere’s labour authorities referred to the importance of coordinating with institutions responsible for childhood and the participation of all sectors of society; in particular, of employers and workers.

2. The prevention of the sexual exploitation of children

Among these forms of exploitation, the sexual exploitation of children (SEC) is a paradigmatic situation. SEC is one of the most flagrant violations of children’s rights, to the point that its existence brings into question the very dignity of our societies.

In recent decades, developments have occurred within the international community, together with the emergence of new forms of this old problem, related to enshrining and ensuring the rights of children. This gives rise to new viewpoints that lead to different perspectives and emphasize aspects that had so far been invisible in relation to the sex trade involving children and ways that the States should intervene.
In 2008, our region hosted the Third World Congress from which emerged the “Rio Call for Action”, containing a number of proposals and commitments made by the States, which despite the years that have gone by, are still current.

On 27 July 2007 - CD/RES. 10 (82-R/07), the Directing Council of the IIN established the Inter-American Programme for the Prevention and Eradication of Commercial Sexual Exploitation and Smuggling of and Trafficking in Minors. This programme performs a number of activities in three areas and maintains an ongoing relationship with the States of the Inter-American System: compilation and systematization of international and regional material produced on the problem; production of knowledge and instruments; increase of the capabilities of the States through technical assistance and human resource training.

Over the last ten years, significant developments have taken place: SEC has been included on the political agendas of the region, most States have national multi-stakeholder commissions to plan coordinated action and national plans have been produced in accordance with international guidelines. In addition, regulatory frameworks, operational instruments (protocols, manuals and guidelines) have been updated and awareness-raising activities have been carried out.

3. Strategies for the restitution of rights

The States in the Inter-American System have expressed their concern on different occasions regarding their difficulty in implementing plans and programmes for the restitution of the rights of child victims of SE.

This concern is reflected in the final paper arising from the Third World Congress held in Rio de Janeiro in 2008. The paper also states that information continues to circulate that is not based on updated knowledge or on the abundant field-based experience available, and that neither experiences nor lessons learned are shared.

In view of these needs, since 2011, the IIN has been conducting studies based on the systematization of experiences. An outcome of this is the study on: Models and strategies for the restitution of CSEC victims’ rights.

During the course of 2012, further in-depth analyses have been carried out along these lines, in an attempt to derive guidelines from the experiences for the implementation of strategies and programmes for the restitution of the rights of child victims of these criminal practices.

The following paper is an output of this process:
Proposals for producing a framework of reference for reparation and restitution of the rights of child victims of commercial sexual exploitation with a gender perspective.
Child victims of CSE have a history of violated rights from the earliest days of their lives. Therefore, the objectives of the intervention should not be restricted to returning them to conditions prior to exploitation, but should include working on the full enjoyment of their rights.

This reaffirms the need for comprehensive interventions. It is not only necessary to repair the various effects of exploitation, but also to work on previous and concurrent violations.

**Comprehensiveness** comprises two elements. On the one hand, measures to recuperate the different areas of children’s affective, cognitive and social lives, including their health, in its physical, psychological and bonding aspects. In this respect, at the time of the intervention we use material arising from several of the experiences analysed, which implies initiating intervention with a diagnosis that includes the extent of fulfilment or violation of all rights, in order to implement a battery of measures leading to restitution. On the other hand, comprehensiveness should be included in the different stages and components of the restitution process: promotion of rights, prevention, halting exploitation, with the requisite measures of protection; re-establishing all rights; restoring dignity and strengthening victims; social and legal penalties for offenders, and prevention. That is, steps should be taken with children and their environment in order to prevent exploitation from recurring. In this last phase, it is particularly important to provide follow-up and access to universal policies.

Prevention, the restitution of rights and full resettlement into the community are strongly interconnected phases: without a community that is open to accepting these children as individuals that are full holders of rights, they will inevitably remain trapped in their condition of victims.

Because of all of the above, we propose working on the three focal points: prevention, restitution, resettlement and penalties for adults responsible in a comprehensive manner, as phases in the process of transforming contexts that favour exploitation into environments providing peace and social integration in conditions that fully respect the dignity of persons beyond any consideration of age and previous way of life.