

# 20 years after the Convention on the Rights of the Child: Progresses and setbacks in the policies for children

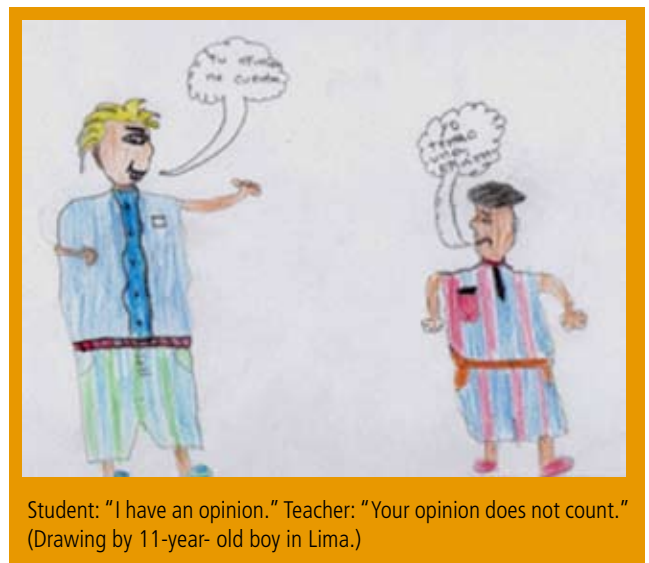
In these years, there has been more progress in implementing health policies that have shaped the decline in infant mortality but have not yet achieved the incorporation of an intercultural approach in education. For example, 60% of teachers in the Amazon do not speak the language of the people whom they work with.

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In 2009, UNICEF commissioned me to make a brief and speedy investigation on the situation of children in Peru. Along with a rights-based analysis of policies, they required a view from the voice of children and adolescents (CA), which we did through drawings, in order to obtain their social representations on what they think about being a boy or a girl.

<sup>1</sup> This article had the collaboration of Edward Dyer Cruzado. The illustration and the testimonies of children and adolescents, as well as the statistical data are taken from UNICEF (2009).



Student: "I have an opinion." Teacher: "Your opinion does not count."  
(Drawing by 11-year-old boy in Lima.)

“ The law gives you the facility, it gives you the option to tell the truth, that they understand what you say and the situation where you are and help you.” (Teenager 15, Lima.)

“ Be free and express opinions freely expressing you in an assertive way.” (Teenager 16, Lima.)

The results are encouraging because we are doing much more than 20 years ago as a State, but also disappointing, for there is breakdown and lack of strategy. Some figures improve; others get worse (UNICEF, 2009).

Undoubtedly, there have been positive changes for children in the last 20 years. However, we do not have

a mainstreaming strategy - for that it is its nature - for public policy yet which addresses the issue of the rights of CA. The ratification of the Convention on the Rights of the Child (CRC) in 1990 has led to the formulation of public policies in this area with important but insufficient efforts to overcome the problems besetting CA.

The decisions taken by the State in this area allows us to observe that the main change corresponds to a new approach under which the State is acting. Today, this approach considers CA as subjects of rights rather than mere objects of protection. We have managed to open the passage from a "doctrine of the irregular situation" to an "integral protection doctrine". While a series of sectorial and some crosscutting actions have accompanied this paradigm shift, we have not yet managed to articulate programs and projects fully. This ultimately characterizes the State activity as a purely formal or operational response, devoid of a comprehensive strategy capable of solving the major problems concerning the rights of CA.

Perhaps the landmark that illustrates more lucidly the paradigm shift is the adoption of the National Plan of Action for Children (the Plan) in June 2002. In its preparation, this policy instrument took into account the active collaboration of CA, projecting them as agents of change. Taking into account that in the 1990s policies related to CA were a residual and pejorative category of social policies, which in turn were part of the "poverty alleviation" policies, considering them by the Plan as a benchmark of the paradigm shift brings preponderant significance.

The divorce between the new formal approach relating CA that is now addressed (which means organic tools such as the Code of Children and Adolescents and the National Plan of Action for Children), and commissioning erratic and disjointed practice of various social programs and State measures can be explained by the lack of political will.

“ The State becomes the home of the old, the house where the President or the father, if I may say, governs Peru, runs the forge for a better future, that is the State ... we all are the State". (Teenager, 16 years in the Amazon.)

“ The State is where all the ministers are, for example ... the Minister of Justice, Economy, Education." (Teenager, 13 years in Lima.)

This limited capacity of the State in terms of children's matters has also been changing. A short and rapid analysis of presidential speeches in recent years gives us some clues. Every 28 of July, presidents present sectorial reports of children's problems, without outlining comprehensive strategies to address them. Recurrent sectorial issues include reduction of illiteracy, poor health infrastructure and education, or immunization coverage and other issues addressed with effective arguments: "six million school notebooks", "classroom revolution" or "healthier and better educated children: that is modernization and future". It was not until recently that there has been a vision of the State's responsibility in this matter, and there is still no clarity about the cross-sectorial nature of the topic.

The National Accord is an instrument of vision of the State whose operation depends on political decisions through rules, plans and programs. The sixteenth policy of this document establishes family strengthening, protection and promotion of childhood, adolescence and youth. In this policy, the National Accord has chosen to set comprehensive goals developed in detail in other policies covering matters such as the fight against poverty, education, health and family violence. Although it is not a legally enforceable document, like the Millennium Development Goals, it is a guide and reference for the development and implementation of public policies.

In this regard, the adoption of the Code of Children and Adolescents is the main regulatory progress in the protection of CA. This norm treats children as rights holders and establishes a series of rights and responsibilities especially to protect them. Importantly, the Code established the constitution of the Municipal Defenders of Children and Adolescents (DEMUNA) incorporated since 1997 in the Organic Law of Municipalities as a function of local governments. A Report of the Ombudsman's Office realizes that, for example, it is necessary to consider legislation on CA abuse and punishment.

Another important public policy instrument is the National Action Plan for Children 2002-2010. In 2005, Law 28487 granted force of law to Supreme Decree 003-2004-PRO-MUDEH, which approved the Plan, thus becoming an instrument of the highest level for the country<sup>2</sup>. Additionally, in the framework of the decentralization process at

least 19 regions of the country have developed plans of action for children and adolescents.

To recognize the extent to which measures reflected in policy documents have a concrete impact on the protection of the rights of children and adolescents, it is useful to analyze the way in which major public policies developed over the three main areas of protection of children and adolescents: health, education and protection in the strict sense.

**THE RIGHT TO HEALTH**

In health, the trend in infant mortality has fallen significantly. In addition, progress in immunization has been tremendous, thanks to an aggressive - although problematic - vaccination program of the Ministry of Health.

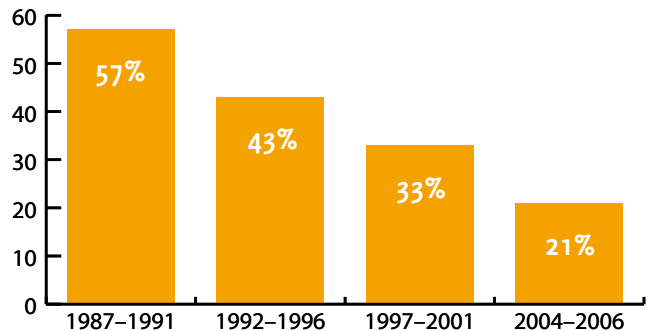
In the late 1990s, the Maternal and Child Insurance (MCI) and the Free School Insurance (FSI) aiming at ensuring mothers and poor children access to health services were implemented. In the case of MCI, they have managed to increase coverage in a short period, but mainly in the middle class, without reaching the poorest segments of the population (Jaramillo and Parodi, 2004).<sup>3</sup>

According to official data, in 2002 the Integral Health Insurance (IHI), which brought together the MCI and the FSI, had 5.8 million members, of whom 88% were children and adolescents. In May 2005, it had 8.7 million regular affiliates, composed mostly of pregnant women and children under 17. In the year 2008, it would have more than 10 million members, of whom more than 6 million are children and adolescents. Lima Region concentrated 12.3% of the insured population nationally, followed by Cajamarca (8.3%) and Piura (7.3%), while other regions,

2 At national level, the Peruvian government has introduced a series of plans related to the protection of children and adolescents, such as the National Family Support Plan 2004-2011; the National Plan against Commercial Sexual Exploitation of Girls and Adolescents 2006-2010; the Development Plan for Children and Adolescents in Municipalities 2006-2010; the National Human Rights Plan 2006-2010; the National Plan for Prevention and Elimination of Child Labor, among others.

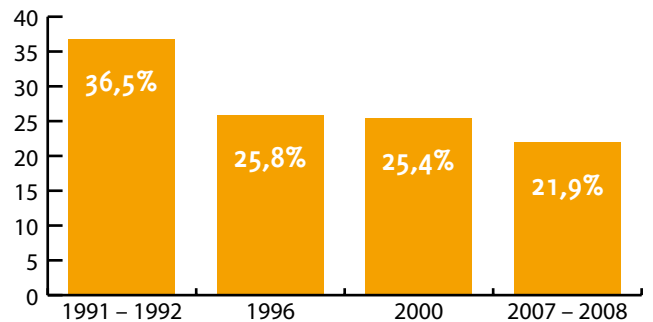
3 Both insurance were unified in the Integral Health Insurance (IHI) in August 2001, expanding coverage of maternal component to the 24 departments of the national territory and setting as a condition of membership that children under 17 years were enrolled in a public school. However, despite achieving expand coverage, there were economic barriers (language, male domination, etc.) that have prevented better results.

**Figure 1**  
Trends in infant mortality. Peru: 1987-2006



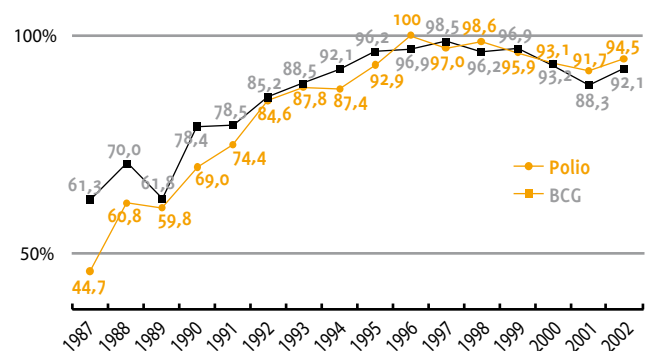
Source: Ministry of Health. <http://www.minsa.gob.pe/estadisticas/estadisticas/indicadoresNac/download/estadodesalud321.htm>, INEI (2007)

**Figure 2**  
Rate of chronic malnutrition (height per age) among children under five years. Peru: 1991-2008



Source: Ministry of Health. <http://www.minsa.gob.pe/estadisticas/estadisticas/indicadoresNac/download/estadodesalud339.htm>.

**Figure 3**  
Immunization coverage achieved in children under one. Peru: 1987-2002



Source: Ministry of Health. <http://www.minsa.gob.pe/estadisticas/estadisticas/indicadoresNac/download/recursos49.htm>.

as Madre de Dios and Moquegua, concentrate 0, 4% each.

An important fact is the increase in teen pregnancy from 11.4% in 1992 to 12.2% in 2004-2006. Unfortunately, neither Law 28704 - Sexual Indemnity Act -, nor the re-

cent ruling by the Constitutional Court on emergency pill, help reduce teenage pregnancy.

In addition, 96% of cases of HIV / AIDS show that the transmission occurred from mother to child. This situation, besides risking people's health, it can seriously jeopardize the progress in all other indicators related to education and development.

### THE RIGHT TO EDUCATION

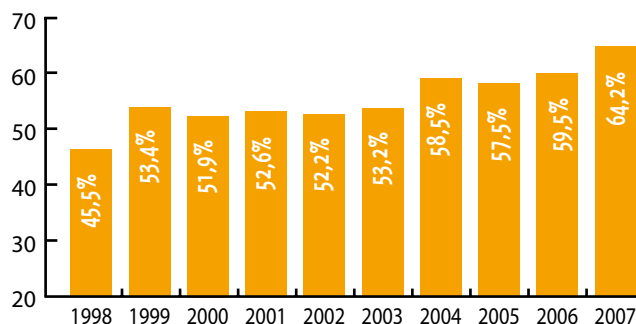
There has been an increase in coverage in pre-school, primary and secondary, but insignificant in the first two. However, we have not yet achieved the incorporation and mainstreaming of an intercultural approach in education. About 60% of teachers in Amazon region do not speak the language of the people they work with.

Most of the rules regulate specific aspects in the sector, rather than raising lines of action articulated and defined. One of the few exceptions is the new General Education Law - Law 28044 - that incorporated, among other novelties, a new type of education: alternative basic education, aimed at meeting the needs of students who need to combine study and work. Another important step is Law 28988, published on March 19, 2007, which declared basic education as an essential public service in order to ensure continuity of education services, excluding holiday periods during school years. This rule also states that strikes or any other form of interruption of service unilaterally by the management staff, teachers or other members of the sector, are irregular.

However, undoubtedly, it is the 2010 National Education Project, approved in 2007, the most important public policy instrument. The National Center of Strategic Planning (CEPLAN) has announced its inclusion in the National Strategic Plan 2010-2021, currently under development.

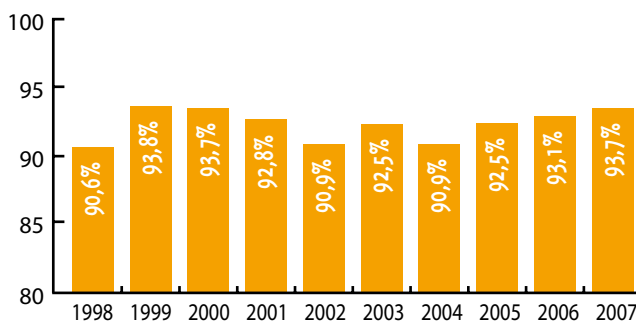
According to the Plan of Action for Children and Adolescents, the State should allocate 6% of GDP to the education sector. However, for the year 2010 about only 3% on average has been provided - the same amount in recent years. From a qualitative perspective, the major challenges facing this sector in relation to the situation of children and adolescents are to improve the quality of teaching (with better results in Reading and Mathematics) and an inclusive and multicultural education involving bilingual courses.

**Figure 4**  
Coverage rate in primary education of 3-5 years.  
Peru: 1998-2007



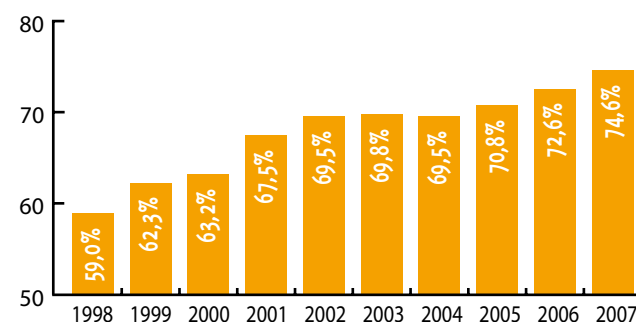
Source: Ministry of Education. <<http://escale.minedu.gob.pe/escale/series/peru2007.do?cuadro=01-06>>.

**Figure 5**  
Coverage rate in primary education 6 to 11 years.  
Peru: 1998-2007



Source: Ministry of Education. <<http://escale.minedu.gob.pe/escale/series/peru2007.do?cuadro=01-08>>.

**Figure 6**  
Coverage rate in secondary education from 12 to 17 years.  
Peru: 1998-2007



Source: Ministry of Education. <<http://escale.minedu.gob.pe/escale/series/peru2007.do?cuadro=01-09>>.

### PROTECTION

Regarding protection, there is a tendency to legislate for women and children, as evidenced by the approval of the TUO (see N.T.) of Law 26260, Law on Protection against Domestic Violence in November 2008 and amended by Law 29282. However, in the adolescence cycle, the law





seems to have been adverse. The difficulties in the adoption, removal and return of legislation on terrorism, and the minimum age for criminal responsibility, show that adolescents are still seen as a problem and who should receive punishment, with no clarity on the definition of prevention policies.

The problem of child labor can serve as an example to highlight the terrible consequences that the lack of a comprehensive public policy can generate. Between 1993 and 2001, the number of children workers between 6 and 17 increased dramatically (7.9 to 26.9).

It is easy to see that the debate about the total prohibition of child labor has come across a dilemma leaving children who need to work or those who are initiated in agriculture following cultural customs in a situation of vulnerability and disadvantage. The proposed solutions have gone through "determine" the adequacy of school hours to working hours of children and adolescents who work, or "determine" the registration of working children locally, being the lack of investigations about the causes of child labor the most relevant concern.

However, measures such as these require the implementation of new amendments: improving quality of education, hiring more teachers, construction of schools in rural areas, among others.

As stated from the beginning, the response must be comprehensive. The health of working children demands a range of services other than for children who do not work. A failure to offer this type of service will affect negatively, making any project that seeks to bring malnourished and sick children to school useless.

Altogether, this exposes the need for a national strategy that has clear policy guidelines on aspects of cross-sectorial coordination and prioritization of issues for public intervention. This strategy should provide a basis for developing a national plan to overcome the isolation or ineffective action of the various sectors.

There are at least 19,000 CA living in institutions (Residential Care Centers-RCC). Children remain in RCC between 3 to 5 years, and there are those who stay until age 18. Undoubtedly, it is necessary for the Ministry of Women



and Social Development (MIMDES) to maintain the policy of progressive improvement of the National Adoption System designed to ensure CA their right to have a family (see Figure 7). However, the quality of the RCC should also be significantly improved, since they must be suitable

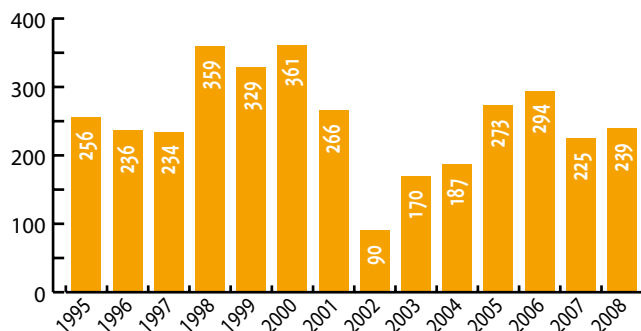
places for CA. The Ombudsman’s Office has announced a major report in this regard.

Fundamental positive change in public policy-making through a more rigorous design, implementation and evaluation, occurred in 2008 through the creation of the Strategic Budgetary Programs (SBP). These programs were designed with the logic of management and budget results. Of the nine running SBP, 4 would impact directly on the welfare of children, adolescents and their mothers: (i) Maternal and Neonatal Health, (ii) Structured Nutrition Program, (iii) Achievement of Learning in the III level of Basic Education and (iv) Access to identity. In addition, an urgent SBP on the prevention and eradication of child labor is coming.

Also noteworthy is the creation of the Children and Adolescents Special Office of the Ombudsman in charge of protecting the rights of individuals and the

Figure 7

Number of adopted children. Peru: 1995-2008




Source: Ministry of Women and Social Development, National Secretariat for Adoptions 2009. <<http://www.mimdes.gob.pe/sna/estadistica.htm>>.

community, through the supervision of State administration and public services to citizens. In this sense, it fulfills one of the recommendations of the United Nations Committee on the Rights of the Child proposing the creation of a specialized office for protection. Being a new mechanism, gradual strengthening is expected.

Do not forget that in our public administration system, the MIMDES works as ruler of the National Care System for Children and Adolescents. This requires coordinating the implementation of plans and programs and foster research and measures to protect the rights of children and adolescents. Therefore, it is required a more active role in coordinating and promoting various public programs designed to ensure the protection and promotion of the rights of children and adolescents. To date, the results of the National Care System for Children and Adolescents show that the institution is a nominal entity whose objectives exceed all efforts to make them effective.

Finally, it is important to insist on demanding the creation of spaces and mechanisms for appropriate involvement of children and adolescents, as well as

requiring the implementation of articulated, mainstreaming and inclusive public policies among the State sectors of our country, with sufficient public investment and managed from a holistic view of childhood and adolescence. Nothing can be more important in our public policy agenda but children and adolescents. 

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## DOCUMENT FOR INFORMED DEBATE

### **Timely recruitment of teachers in rural areas Diagnosis and proposals to address gaps and regulatory and administrative knots. Case Studies in Ayacucho and Cusco**

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