

CHILD'S RIGHT TO IDENTITY IN FAMILY RELATIONS:

a Latin America's perspective

Some L.A. challenges concerning child identity in Family relations (UNICEF data)

- 3 million children with no birth certificate in the region
- The proportion increases in remote areas, especially among indigenous people
- Teenage pregnancy: 63 births per 1000 adolescents aged 15-19 y.o.
- 1 in 20 children under 5 y.o. are left alone or under care of another child below 10 y.o.
- Only 6 out of 10 children between 3 and 4 y.o. have access to early child education
- 2,3 million children out of primary education (3,8%), 2,5% out of lower secondary education (7,2%)
- 7,2 million out of higher secondary education (23%) ⇔ Adolescent homicide rate in LA is 5 times higher than the global average. Rates increase among minority groups
- 72% of children aged 0-14 y.o. live in poverty ⇔ 2 out of 5 children have their rights not fulfilled
- 240.000 children grow up in residential care institutions, of which 10% are under 3 y.o.

Impact of social inequalities on the right to child identity in Family relations

- Neglect and lack of family resources were/are historically intertwined and considered as a reason for removal of children from their families and placement in alternative care, without due consideration to the State's omissions
- Social inequalities expressed not only by poverty, but also by the lack of services/facilities to support families in their needs and to grant access to rights by children: education, social services, health programs
- Structural racism pervading interventions, with impact on disparities of rates in several areas

Some opportunities for change

- CEPAL: Conditional cash transfer programs operate in 17 countries out of 33 countries in the region. In 2015, CCTs benefited 30 million families (one fifth of the region's population), with an investment corresponding to 0.33% of regional GDP; that is, US\$153 per capita
- Perspective change + rights based approach on family interventions (at least at an institutional and legal basis level): emphasis on preventive and universal social policies for families, granting rights and citizenship, instead of a focus on substitutive care for children ⇔ in case of violation of rights, State primary liability in the duty to grant children's rights recognized by law in some countries
- Legal enforcement: collective and structural actions against the State to provide services to grant rights for children
- Increasing social awareness of inequalities and its structural roots (gender, racial, cultural etc)
- Increasing opportunities for participation and democratic change, including for children

Universal policies, but focused on singularities: challenges and promises

- Birth registration: Improvement of integrated services between health facilities and registration services + increased use of technology (online civil registration) + Itinerant services to reach the population for birth registration in distant areas (indigenous population); supportive programs for mothers who demand paternity recognition by the alleged father
- Increased recognition of diversity in familial configurations (including LGBT+ families) and modalities of care ⇔ diversity of support from social and health services
- Diversification of modalities in custody regulations and in supportive programs for mediation (including the participation of children), for family support programs and supervised visitations in the Justice System
- Increased recognition of children's own identity specificities on gender (name changing, hormone treatment for LGBT+); race (interracial adoption and its special challenges); cultural age (early childhood as a special category and the need of specific policies in family programs, foster care in special; youth as

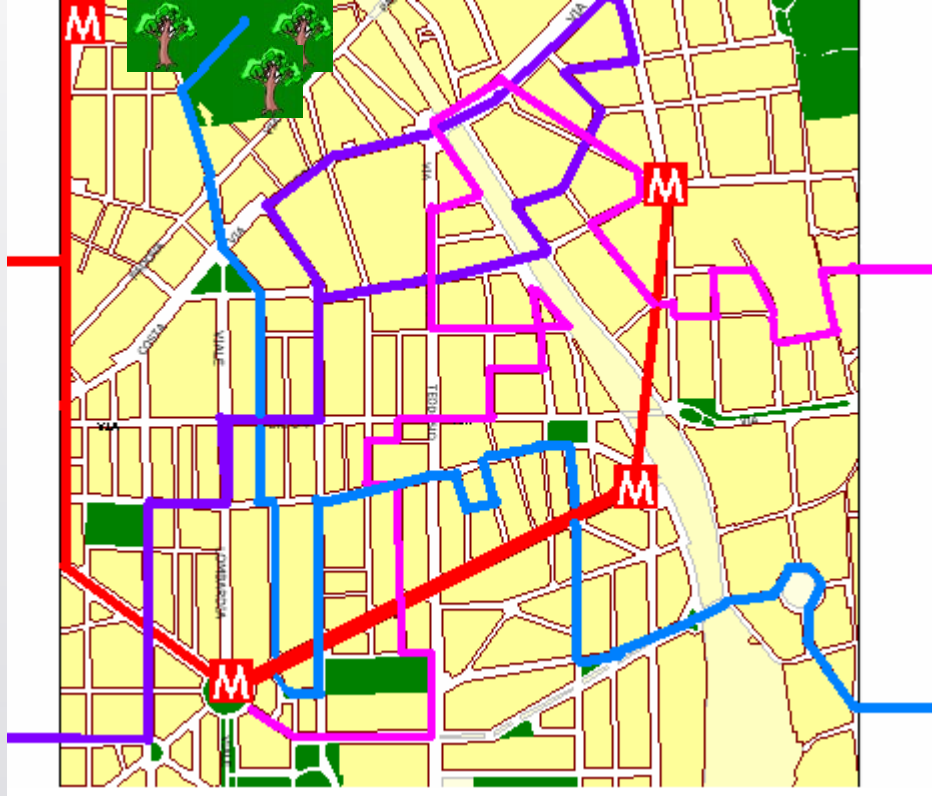
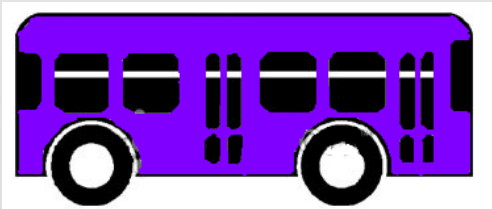
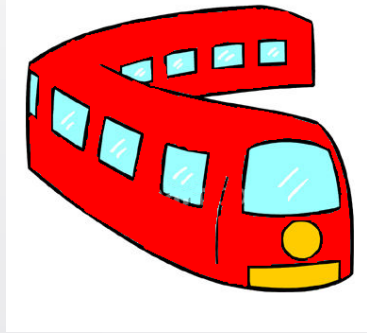
Repairing the wrongs of the past and trying to do it right

- Search for origins by adopted children + reconfiguration of adoption system (Open adoption)
- Recognizing violence in sex reassignment of intersex children, possibility of third gender in birth registration and of change permission of sex registration (overcoming sexual normative patterns allow parents to have a loving and caring interaction with children, without pathologizing them)
- Increasing awareness and recognition of institutional violence by the State (including judicial intervention) in various areas (children and parents deprived of liberty; lack of supportive programs for parents with disabilities...) and the need of participatory, integrated, supportive, and preventive methodologies to deal with families and children

Brazilian experience in social security and social protection under a rights based approach

- Context: Brazil was experiencing an increase in the number of children placed: from 19,373 in 2004 to 36,929 in 2013
- National Social Assistance Policy organized in 2004, with the specification of all services in 2009. with an emphasis on basic protection and requalification of special services, such as specialized and diversified support programs for families + alternative care (only 56,7% of the services had in 2004 less than 20 children placed ⇔ average number = 33)
- Conditional cash transfer programs + constant increase in the minimum wage

Between universal policies and singular attention



Concentrated hearing: a Brazilian experience in Family reunification

- Child protection courts have jurisdiction both on placement and the follow up of alternative care
- Since 2010, concentrated hearings became mandatory in Brazil to reanalyze the situation of children in alternative care, every six months
- The aim of the hearing is to identify all factors that may impact the family's capacity to raise the child and, with the participation of the child and the family, to establish actions and goals to be achieved for the family reunification, both by the family and the State
- Besides legal professionals, representatives of all public policies (health, housing, social services, education, human rights) must attend the hearing in a joint effort to overcome the situation of vulnerability that has determined the placement
- Focus on singularities and singular needs of the family and how public services can provide this specific attention

Impact

- In spite of an increase of the population in 7%, there was a 10% decrease in the number of children in alternative care, from 36.929 to 33.032 (65,6 children/100.000 inhabitants children in alternative care in 2010 to 59,1/100.000 in 2020)
- In 2004, 45% of children had no follow up of their situation by the Judiciary, in 2013, there were only 8%
- Children in alternative care for more than 2 years decreased from 52,6% in 2004, to 30,4% in 2013 and 22,5% in 2020
- Average number of children placed/institution =10
- Decrease in the number of children placed without due process
- Anticipation of concentrated hearings model to be used before placement ⇔ preventive approach