



Introduction

Since its creation, the Inter-American Commission on Human Rights (hereinafter, the Commission or the IACHR) and, subsequently, the Office of the Rapporteur on the Rights of the Child, have been consistently monitoring respect for and protection of the rights of children and adolescents in the hemisphere.¹ In this regard, the IACHR has underscored the importance of ensuring children's right to the holistic development of their full potential, which is closely tied to the ability to exercise and effectively enjoy the rights of the child, as recognized under international human rights law.

In this context, the different manifestations of the phenomenon of violence pose a particularly serious threat to the full development of children, not only because they violate children's right to humane treatment, but they may also infringe their right to life and have negative effects on other rights, such as the right to physical and mental health, education and the right of children to harmonious and full development as persons, among other rights. The IACHR has placed particular emphasis on the right of children and adolescents to full development in a violence-free setting and has identified a variety of contexts and settings in which children may be confronted with different forms of violence, including but not limited to the family, the community, the school, protection and care-providing institutions, and juvenile justice facilities. Additionally, the IACHR has put forward recommendations to the States for the prevention of violence and the provision of adequate protection to children and their rights.²

Within this framework, through the system of petitions and cases, precautionary measures, hearings and visits, it has come to the attention of the Commission that actions of organized crime, or groups linked to criminal activities, especially those with access to and in possession of firearms, have an impact on the rights of children. Another situation the Commission has been closely monitoring is gang violence, particularly when these groups are in possession of guns. The IACHR has been monitoring the States' responses in these contexts and, on several opportunities, the Commission has expressed its concern over State actions of a repressive nature, which do not strictly adhere to human rights standards and may even trigger further violence, as well as emphasized the importance of focusing to a greater extent on comprehensive public prevention policies.

By way of background, the United Nations Secretary-General's Study on Violence against Children,³ released in 2006, had previously raised concern about the effects of organized armed violence on children and adolescents in this region, as well as the need for States to live up to their obligations to prevent and respond in ways that abide by the human rights of children and adolescents.

1 The terms "children" or "the child" are used interchangeably in this document to refer to young girls, boys and adolescents, which mean any human being under the age of eighteen, as defined in the United Nations Convention on the Rights of the Child and the international *corpus juris* on the subject matter. This does not preclude use of the terms at times to mean either "children and adolescents" or "adolescents" alone.

2 In this regard, in 2009 the IACHR released the Report on "Corporal Punishment and Human Rights of Children and Adolescents;" in 2011, it adopted the Report on "Juvenile Justice and Human Rights in the Americas," addressing issues such as violence in juvenile deprivation of liberty facility settings; and, recently, in 2013, the Report on "The Right of the Child to a Family. Alternative Residential Care. Ending Institutionalization in the Americas," ("El derecho del niño y la niña a la familia. Cuidado Alternativo. Poniendo fin a la institucionalización en las Américas," as yet, only available in Spanish), which examines violence in protection and care-providing institution settings.

3 The full study can be viewed at: <http://www.unviolencestudy.org/spanish/index.html>

Recent studies have once again highlighted that the Americas is a particularly violent region in terms of reported homicide rates in the countries of the hemisphere,⁴ in addition to being the region with the highest rate of violent death by firearms among adolescents, especially young people belonging to groups traditionally excluded from society, who are particularly vulnerable to impairments in exercising their rights. This situation stems from several concurrent factors, including the high number of fire arms in the hands of private individuals and the presence of groups linked to illicit or criminal activities, such as drug trafficking, human smuggling and trafficking, and extortion. Additionally, high levels of impunity in the investigation of crimes and the respective punishment, virtual inability of the prison system to mainstream inmates back into society, instances of corruption of public servants and even of ties of members of the public security forces to organized crime and/or the activities of armed groups, make conditions ripe for scenarios of violence and insecurity to reoccur, in addition to undermining confidence in the proper workings of democratic institutions.

The IACHR has noticed that precarious living conditions of certain groups and communities and the resulting limitations faced by these groups on the exercise and enjoyment of their rights are a risk factor for the phenomenon of organized armed violence. When it comes to children and adolescents, these limitations on the enjoyment of their rights, together with the absence of opportunities to develop their life plans and ambitions, place them in a situation of great vulnerability, which may lead to their joining the groups perpetrating the violence on their own communities or to becoming victims of their actions.

The IACHR has asserted that in order to bring down the levels of insecurity and violence, an approach based on protection and respect of the rights of persons and on promotion of the rule of law must be adopted. Even though this issue has historically been addressed from an almost exclusively law enforcement and crime repression-based perspective, a new course of action is under way placing greater emphasis on prevention and addressing the root causes of a structural nature, which give rise to the violence.

In this report, the Commission will look at how the phenomenon of organized armed violence violates the rights of the child. The Commission deems it necessary to examine this phenomenon more thoroughly and gain further insight into the root causes thereof, bring to light the different impairments to and violations of the rights of the child, as well as to explain State responsibility stemming from it, and the current status of compliance by the States. The IACHR identifies children and adolescents as one of the especially vulnerable groups in contexts of violence, because of their particular condition as such, underscoring the heavy toll it takes on children, either as victims of the violence or as a result of their ties to the structures and activities of the armed actors.

The Commission has approved other reports that are directly related to the subject of this report. In 2009, the IACHR approved the "Report on Citizen Security and Human Rights,"⁵ examining therein the obligations of States in the area of citizen security from a human rights angle. In 2013, the IACHR addressed the obligations of States, with regard to strengthening families and communities, as a way to enhance child protection, in the report on the "Right of the child to a family. Alternative residential care. Ending institutionalization in the Americas."⁶ This last report attaches great importance to establishing the necessary measures designed to aid families through public policies under the framework of the National Rights Promotion and Protection Systems, which must include actions to support families in raising and caring for their children in settings conducive to the protection of their rights. Additionally, in 2011, the IACHR report on "Juvenile Justice and Human Rights in the Americas"⁷ set forth international human rights law principles and standards pertaining to persons under 18 years of age in conflict with criminal law, recommending States to

4 This can be viewed at: <http://www.genevadeclaration.org/fileadmin/docs/GBAV2/GBAV2011-Ex-summary-SPA.pdf>

5 IACHR, Report on Citizen Security and Human Rights, OEA/Ser.L/V/II., doc. 57, December 31, 2009. Available at: <http://www.cidh.org/countryrep/Seguridad/seguridadindice.sp.htm>

6 <http://www.oas.org/es/cidh/infancia/docs/pdf/Informe-derecho-nino-a-familia.pdf>

7 Report on Juvenile Justice and Human Rights in the Americas, OEA/Ser.L/V/II., doc. 78, July 13, 2011. Available at: <http://cidh.org/countryrep/JusticiaJuvenil2011sp/jjindice.sp.htm>

step up implementation of comprehensive prevention measures and to institute systems of restorative justice for children and adolescents in conflict with criminal law aimed at the social reintegration of the child.

Through the instant questionnaire, the Commission seeks to gather information to help it to get an up-to-date picture of the presence of the phenomenon of organized armed violence in the countries of the region, the challenges posed by this phenomenon and of the progress made in confronting it. The information submitted in the context of the responses to the questionnaire will be of great use to the Commission in the writing the aforementioned report. The purpose of the report will be to establish international standards in the subject area, identify ongoing challenges in the countries and to offer recommendations to the States in order to help them better meet their international human rights obligations.

Questionnaire

Contexts of Citizen Insecurity linked to Organized Armed Violence

1. How would you describe the presence of contexts of citizen insecurity linked to organized armed violence in the country? Are there areas in the territory, which are at particular risk of organized armed violence, and how would you describe these areas?

2. How do these contexts of violence affect children and adolescents? Are there particularly affected groups of children and adolescents; what is the profile of these groups; and why do you view them as being particularly at risk? Is there any gender-based differentiation in the effects? Is there any information available on the types of involvement and/or links of children and adolescents to these forms of crime and violence? Are there any statistics available on the number of fatalities of persons under 18 years of age, which have occurred in this type of context?

3. Are there any studies to examine the root causes, as well as the immediate causes, of children and adolescents becoming linked to these forms of crime and violence? What risk factors and protection factors have been identified with regard to organized armed violence? Have the (positive and negative) perceptions of children and adolescents on this phenomenon been gathered, as well as their opinions on how to confront it?

Legal and Institutional Framework

4. Describe how the national children's rights promotion and protection system is organized in your country and whether a comprehensive approach has been taken toward violence prevention, particularly, at the local intervention level, and what does it involve? Additionally, describe how effective protection of the rights of children and adolescents is addressed in everyday contexts and settings where the children move and are constantly exposed to crime and armed violence. Particularly, describe the role of the education system in this strategy, and give statistics on access to education and school completion rates of children and adolescents living in areas exposed to organized armed violence.

5. What provisions of law have been enacted with regard citizen security, not only in the criminal codes, but in other branches of law as well? Particularly, explain the legal framework and public policies for prevention and control of the factors that generate violence in the community setting. Does this type of policy exist at other levels, such as at the Provincial/Departmental/State and local level? Do these laws and policies contain specific sections on children and adolescents?

6. How would you describe the approach to human rights in these policies? How effective do you consider these national policies and plans to be in confronting the phenomenon? What means of data collection and what type of statistical information are available to the State for the formulation of public policies on this

subject matter? Do the plans include clear objectives and indicators, which make it possible to measure progress and results? What do you consider to be the best example of progress and/or success? What do you consider to be the main roadblocks to implementation and achievement of results?

7. In the executive branch of government, what ministry/secretariat/department is mostly in charge of issues relating to citizen security? Does this ministry/secretariat/department have a unit specialized in the rights of children and adolescents? Are there other territorial levels of government, such as provinces/departments/states in the case of federal systems, or the local level of government, which have legal authority in this subject matter?

8. Are there committees/councils, particularly at the local level, to address this issue? How do they work, who are they made up of, and what legal authority have they been given? Do they include citizen participation, particularly members of the communities most affected by the violence? Is there any mechanism in place to include the opinions of the children and adolescents exposed to this phenomenon? What results or achievements have been attained? What challenges do you face in making it work properly? Describe any best practices in this regard you may be aware of.

9. What other sectorial authorities or government agencies (for example, social services) are responsible for or have the legal authority over prevention and response to violence in these contexts? What specific strategies and programs are there with regard to these contexts of violence prevention in areas such as health, education and professional training, social services, culture and public spaces, labor and family support? Describe inter-sectorial or interagency coordination mechanisms.

10. Explain the legal framework and policies on victim protection and assistance, as well as recovery, rehabilitation and reintegration of children and adolescents formerly linked to violence in the aforementioned contexts.

Public Security Forces

11. Identify what public security forces (civilian police, military police, armed forces) are responsible for citizen protection from the actions of organized crime and/or groups exerting control through gun violence. Do the security forces have specific strategies and programs to prevent violence and protect children and adolescents in these contexts, beyond monitoring, investigating and prosecuting crimes, and what do they involve? Do they have a specialized unit in this subject area? How are the security forces coordinated with other sectors, particularly with the agencies making up the national children's rights promotion and protection system?

12. Is there a specific procedure or protocol in place for interventions of the security forces when children and adolescents are involved? How would you describe the experiences of the security forces in this subject area? What challenges do they face to increase their effectiveness in the prevention and protection from violence in the contexts described in this questionnaire? Are there evaluations on the success/effectiveness of these interventions, and how is it measured?

13. Among the measures taken by the security forces to confront violence, are there practices in place targeting children and adolescents, such as curfews for minors under the age of 18 in effect as of a particular time of the night, or requirements for this population group to show identification cards, or other measures aimed specifically at children and adolescents? Describe what they are.

Justice Sector

14. Provide statistics on the percentage of persons deprived of liberty who are under 18 years of age. Are statistics available on the type and number of crimes for which the persons under 18 years of age were prosecuted and/or convicted?

15. Explain the juvenile justice system laws in effect in your country and the major principles and elements of this system. Describe the specific treatment received by children and adolescents in conflict with the law, as compared to the treatment received by adults.

16. Is a system of restorative justice for adolescents provided for in the law, and what does it involve? Have studies been conducted to compare the results/effectiveness of restorative justice to non-restorative penal systems? Have any studies examined the level of recidivism of adolescents, and what are the main findings in the area of social reintegration?

17. Provide information on criminalizing certain acts relating to the capture, utilization and/or exploitation of children and adolescents in illicit, criminal activities or activities that jeopardize the safety of persons below 18 years of age. Provide data on the number of adults prosecuted and/or convicted for these crimes.

18. Does the justice system provide for specific laws and measures pertaining to children and adolescent victims of violence (for example, specialized courts, modified procedures, fair trial protections, legal assistance, victim protection, etc.)? Describe what they are?

Gun Control

19. What are the major provisions of law regarding the production, trade, use and control of firearms? Does the State have data on the number of firearms existing in the country? Are specific policies and programs in place to reduce the number of guns existing in the country?

20. Explain what type of statistics does the State have regarding possession and use of guns by children and adolescents, as well as statistics on homicides or bodily harm caused by firearms among persons under 18 years of age.

National Drug Policy

21. What are the objectives of the national drug policy and its major component parts? Provide available statistics on drug use among persons below 18 years of age. How would you describe the results of the drug policy as it pertains to children and adolescents?

22. Describe how the State takes into consideration international human rights instruments pertaining to the use of children in illicit activities, particularly drug production and trafficking, and what prevention and protection measures have been instituted as a result of these instruments. What is the number of adolescents in conflict with criminal laws for crimes associated with illicit drugs, and what percentage does it represent of the total number of adolescents in conflict with criminal law?

General Questions

23. In general terms, what do you consider to be the major challenges faced by the country in the area of organized armed violence? What progress has been achieved and to what do you attribute it?

24. In order to provide the responses to this questionnaire, did you consider the opinions of children and adolescents on how they perceive the contexts in which organized armed violence takes place and how this violence affects them, and their opinions on how the State is currently addressing this phenomenon, and their proposals to improve the State response?

25. Please add any further information you deem to be relevant.

