It Takes a Village to Raise a Child: The Role of the Organization of American States in Eliminating the Worst Forms of Child Labor in Brazil

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IT TAKES A VILLAGE TO RAISE A CHILD: THE ROLE OF THE ORGANIZATION OF AMERICAN STATES IN ELIMINATING THE WORST FORMS OF CHILD LABOR IN BRAZIL

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It is often condoned in silence, or justified with the argument that poverty makes it unavoidable and that work is a useful form of preparation for adulthood. Because it is illegal, it has often been declared or assumed not to exist. However, the wall of silence, apathy and denial is beginning to crumble.

- Carol Bellamy

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I. INTRODUCTION

Eyes still pursed with sleep, they sharpen long knives and machetes, the sun just rising behind their small animated shadows. Soon they begin to slash, gather, and drag the *sisal* they harvest; tough, leathery leaves used to weave rugs, rope, and handbags. On any given morning, on this farm in Povoado de Jose Valerio, Brazil, a dozen or so children, ages nine to fifteen work a ten hour day hacking *sisal* leaves. Their work is ultra-hazardous. Sharp blades and processing machines used at the farms “have left many children and their parents with punctured eyeballs, missing fingers, scarred legs and amputated arms.”

The children working in developing countries make up an estimated two hundred fifty million; among them, at least two million children are laborers in Brazil.

Particularly since 1991, the issue of child labor has peaked the Brazilian agenda as a critical issue confronting its leadership. Despite virtual universal condemnation of child labor, its discussion breeds a quagmire of dependent issues involving poverty; international labor and human rights;

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3. BUREAU OF INTERNATIONAL LABOR AFFAIRS, U.S. DEPARTMENT OF LABOR, *By the Sweat and Toil of Children: The Use of Child Labor in American Imports, Country Profile: Brazil* (1994), at http://www.dol.gov/dol/ilab/public/media/reports/ilp/sweat/brazil.htm (last visited Oct. 10, 2001) [hereinafter ILAB 1994]. Figures on child labor in Brazil vary widely depending on the statistical sampling, dates of study and source. This figure is based on a 1994 study by the Brazilian Institute for Geography and Statistics (IBGE) who found that approximately two million, or 14.3% of children between ten and thirteen years of age were working in Brazil. (American Embassy-Brasilia, unclassified telegram no. 02523, March 30, 1994). In September, 1999, another local source, Claudia, declared, 3.5 million working children between the ages of five and fourteen; whereas Veja, a popular news magazine in their December 22, 1999 edition, found 2.9 million working children between the ages of five and fourteen (quoting statistics from UNICEF). Further, the Organization of American States in its 1999 annual study of human rights in Brazil found that there were “around three million minors between the ages of ten and fourteen who work.”
national sovereignty; cultural relativism; and economic development and dependence, rendering its assail formidable. Still, Brazil forges ahead among Latin American countries as the first to adopt a comprehensive model at eliminating child labor with the assistance of the United Nation’s Children Fund (“UNICEF”), and the International Labour Organization (“ILO”), collectively targeting where the worst forms of child labor persist. Definitive improvements in the current and future landscape of child labor in Brazil inspire hope, but unfortunately pale with the elusive tenacity of this disturbing social issue. To strengthen its efforts, Brazil may consider the Organization of American States (“OAS”) for continued development of its child labor model, still in its infancy; thereby inaugurating regional objectives and standards, which may stimulate a hemispheric response to the elimination of child labor.

This note examines the problem of child labor from interdependent perspectives. Part II defines child labor and analyzes the inherent social and developmental impacts it urges on Brazilian children and society at large. Part III comprises an historical analysis of relevant Brazilian socio-economic, and political phenomena perpetuating child labor since the late nineteenth century. Part IV evaluates the modern Brazilian model and its application of national laws and social programs inspired by national and international human rights initiatives to address the child labor epidemic. Part V defines the OAS; its legal, advisory, and technical infrastructures; and its general policies and efforts at eliminating child labor. Part VI proposes a regional plan of attack on child labor in Brazil with a focus on the vigorous integration of ILO’s International Programme for the Elimination of Child Labor (IPEC) initiatives within the OAS. Finally, this note concludes with a call for flexible, persistent, creative, cooperative measures and patient steadfastness, all of which will be required to transform the underlying social psychology that perpetuate child labor in Brazil, and elsewhere in Latin America.

II. THE AMBIT OF CONCERN

A. Dangerous Subsets of Child Work

In a contemporary sense, child labor does not embrace all work that children perform. Executive Director of UNICEF, Carol Bellamy, observes that "children do a variety of work in widely divergent conditions." In fact, she describes a continuum where at one end, work benefits the child, enhancing his or her "physical, mental, spiritual, moral or social development, without interfering with schooling, recreation, and rest." At the most damaging end of the spectrum, child work emerges "palpably destructive or exploitative." Bonded labor and prostitution rest at the latter end, essentially enslaving children. Unfortunately, much of child labor "falls into a gray area between these two extremes." UNICEF acknowledges, however, that child labor is exploitative if it involves full-time or overtime work; physically, socially or psychologically distressing labor or that in bad conditions; or labor with inadequate pay or too much responsibility.

The ILO's Convention No. 182, concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor [hereinafter ILO Child Labor Convention] defines child labor in its worst forms as "all forms of slavery or practices similar to slavery, such as the sale and trafficking of children." Included in this definition are "debt bondage and serfdom and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict." The Convention proscribes "the use, procuring or offering of a child

8. Id.
9. Id.
10. Id.
11. Id.
14. Id.
for prostitution, for the production of pornography or for pornographic performances," or "for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties." Finally, the ILO instructs that "work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children," is the Convention's target for immediate elimination.

Most agree then, that work posing harm to the child, that undermines the integrity of his or her person, inherent dignity and self-esteem, and that which deters social and psychological development, is the type of child labor that outrages the international community. Accordingly, more than ever, empirical studies analyze an array of harmful effects, both physical and psychological, typically visited upon the child exposed to harmful or exploitative labor.

B. Physical Harm

In any country, the working children are exposed to a variety of physical, job-related hazards. Labor poses a greater risk of injury and harm to children than to adults. Children are more prone to accidents due to fatigue; they are unskilled or incapable of some of the work processes; and they naturally exercise the naive discretion and judgment of a child. Moreover, accidents involving children tend to cause more severe harm than those

15. Id. at art. 3(b) and 3(c).
16. Id. at art. 3(d).
17. See ILO, TARGETING THE INTOLERABLE: A NEW INTERNATIONAL CONVENTION TO ELIMINATE THE WORST FORMS OF CHILD LABOUR, STRENGTHENING INTERNATIONAL LAW AGAINST CHILD LABOUR: A LOOK AT THE PROPOSED ILO INSTRUMENTS (1999). In 1996, the ILO developed standards reflecting two general types of child labor: 1) labor or activity contrary to fundamental human rights, such as slavery-like work performed by a child; child prostitution, or use of children in the production of pornography or trafficking of drugs; and 2) work that exposes children to grave hazards to safety or health or prevents them from receiving regular education. 1996 Governing Body Report, ILO Doc. GB.265/2 paras. 31, 40 (1996); Accord IL Conf., Resolution Concerning the Elimination of Child Labour, reprinted in Prov. Rec. No. 1, 83d Sess. at 11/35 (June 1996).
19. See id. at 184.
21. See id.
ELIMINATING CHILD LABOR

In a recent study, forty percent of the accidents recorded in Brazil involving sugar cane machetes, have victimized children although these young workers represent less than thirty percent of all sugar cane laborers. Studies show that children are more prone to disease and death from environmental exposure to pesticides, solvents and alkali that they encounter at worksites. Children working in Brazil encounter harsh climates, sharp instruments, unwieldy loads, and are increasingly exposed to motorized machinery, mutilation, disease and pesticides. In fact, one study notes that children working in the agricultural sectors of developing countries are more likely to die from exposure to pesticides than from all the most common childhood diseases combined. At work, they risk physical harm when performing tasks “which are often heavy, beyond [their] strength and aptitude, during extended hours and with no protective equipment or even training for the task.”

The children who work at the charcoal kilns in Matao Grosso do Sul, typically work twelve hour days, only to break even in paying the amount that the employer charges them to work there. The excess heat of the charcoal kilns (around 158 F) creates great clouds of smoke and dust which has caused an epidemic of pulmonary disease among all workers, including the children. Similarly, children working in Arapiraca, Alagoas, suffer from the nearly seventy percent intoxication rate of farming “agrotóxicos” resulting in epidemics of bronchitis and asthma.

22. COMBATING CHILD LABOR 3 (Assefa Bequele & Jo Boyden eds., 1988).
27. Toils for Tots, supra note 23.
29. Id.
In the neighboring State of Bahia, six and seven year-old children work forty hour weeks in the granite quarries, breaking approximately thirty kilos of stones with steel mallets each day.\(^{31}\) Protective equipment is not used, therefore, children are seriously injured, sometimes blinded, in frequent accidents.\(^{32}\) Even more threatening, however, is the hazard of contracting silicosis.

Children are also commonly found in brick factories, granite quarries, and granite crushing facilities. The latter has been described as placing workers at a significant risk of developing silicosis with a prevalence of 75%. Of the eighteen cases studied, seven children (39%) had silico-tuberculosis. Due to the extraordinary levels of dust exposure, these workers may have a mean latency of less than a decade prior to the onset of silicosis.\(^{33}\)

The effects of silicosis are most grave when exposure is continual and begins at an early age.\(^{34}\) However, the young rock quarry workers maintain an even higher risk of silico-tuberculosis because of their poor nutrition, the unavailability of health care, and the restricted and unventilated work areas, which are common at the rock quarries in Brazil.\(^{35}\)

Child scavengers are closer to the cities. There are an estimated 50,000 child scavengers in Santana do Parnaiba, São Paolo who search ten hours a day each day, for aluminum cans, plastics, and cardboard in municipal dumps to sell as recyclables.\(^{36}\) These child scavengers are exposed continuously to disease, to sharp objects, and to the risk of moving garbage trucks.\(^{37}\)

Physical harm inflicted on child laborers, however, is only part of the picture. This harm actually operates as a co-factor to the developmental impacts that concurrently bear on these children.\(^{38}\) Though physical harm to children is most

31. See id. at 17-19.
32. Id.
33. Parker, supra note 18, at 185.
35. Parker, supra note 18, at 186.
36. Peres, supra note 30, at 18-19.
37. Peres, supra note 30, at 18-19.
38. See Amelia Maria Noronha Pessoa de Quieroz and Ligia Gomes Elliot, Projeto
conspicuous, discreet analysis of contemporary research demonstrates that developmental neglect also degrades the status and position of children in society, which, in turn, negatively influences Brazilian society at large.\(^\text{39}\)

**C. Developmental Harm**

1. Educational and Vocational Development

Developmental harm relates primarily to the child's inability to receive an education or vocational training.\(^\text{40}\) Child labor induces a general decline of education and causes illiteracy, which translates ultimately into a lack of skills development.\(^\text{41}\) For example, in the industrial districts of Manaus, Northern Brazil, adolescents are granted the status of "apprentice," but typically learn work on assembly lines, rather than the technical skills they might otherwise market to emerging economies.\(^\text{42}\) Child work is usually dull and repetitive, requiring long hours which frustrates school attendance.\(^\text{43}\) While more than half of the working children and adolescents in urban Brazil combine work with school,\(^\text{44}\) eighty percent of Brazilian children drop out of school entirely before the age of thirteen, despite compulsory education laws which mandate children attend school until the age of fourteen.\(^\text{45}\) The larger problem is the government's failure...

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39. See id.


44. See Deborah Levison, O trabalho e a escolarização de crianças e adolescentes nas cidades brasileiras: lições do levantamento PNAD - 85, MINNEAPOLIS: CENTER FOR POPULATION ANALYSIS AND POLICY (1993).

45. See Alan B. Krueger, International Labor Standards and Trade, in ANNUAL WORLD BANK CONF. ON DEV. ECON. 1996, at 296 (Michael Bruno & Boris Pleskovic eds.,
to provide proper public education. At least one author believes the government's sanctioning of large-scale public corruption or clientismo undermines the country's ability to provide educational services to most Brazilian children, which produces more children living and working in the streets. Once these children experience the "dangerous freedom on the streets," they are less likely to adapt to a formal classroom setting, complicating efforts to teach them.

2. Psychological and Emotional Development

Children who labor young also commonly suffer from emotional and psychological disturbance. In particular, occupations such as street work, military service, and child prostitution promise "more devastating psychological damage from living and working in an environment in which they are denigrated or oppressed." The typical profile of a participant in Projecto Semear in Rio de Janeiro shows children working in the streets of Brazil suffer from emotional distress, which interferes with proper childhood development.

[These children] had not yet had much schooling or appropriate training and felt that they were powerless to change the violent conditions in their communities [which] contributed to their feelings of insecurity, impotence and inferiority... They were emotionally needy and unstable, aggressive, suspicious and distrustful of society. Their previous school experiences were largely

1997. See also BELLAMY, supra note 9, at 29 (In 1994, the Instituto Nacional de Educação e Pesquisa, Brasilia found that 40 percent of primary school completion.).
48. BELLAMY, supra note 7, at 55.
50. Intolerable, supra note 2, at 7.
51. Quieroz & Elliot, supra note 38, at 194-195.
52. Klees et al., supra note 49, at 79.
negative and they left school. Most of them spent their days in the streets either loitering or working for drug dealers. Yet they were able to learn, create and grow...53

Developmental problems associated with child work, ironically, tend to stem from and evolve into societal mechanisms that serve to perpetuate child labor for generations.54

D. Societal Harm

1. The Perpetuation of Poverty

As one report aptly concludes, "[p]overty begets child labor begets lack of education begets poverty."55 The prevalence and accessibility of child labor results in widespread noncompliance with compulsory education laws that continually weakens child labor efforts, and recycles child laborers from generation to generation.56 "Although children work because they are victims of poverty, by working instead of being educated, they tend to perpetuate the cycle of poverty."57

Similarly, many industries prefer child laborers and can easily manipulate their visibility because child laborers are cost effective, easily hidden and substitutable, ignorant of their rights, and not prone organize.58 The widespread use of child

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53. Quieroz & Elliot, supra note 38, at 195.
54. FYFE, supra note 20, at 171.
55. BELLAMY, supra note 7, at 41.

As recently as 1995, Pakistani soccer ball manufacturers denied that children were stitching soccer balls. The Human Rights Commission of Pakistan noted that... manufacturers seemed to have instructed their contractors not to talk about child labor, and taken the contractors to task, 'not so much for employing child labor as for letting it become visible.

Id. See also, Assefa Beguele & Jo Boyden, Child Labor: Problems, Policies, and
labor aggravates adult unemployment, exaggerates inequality of income and wealth, and decreases the overall wage adults are inclined to expect. Collective efforts that would bring laborers and child laborers some degree of relief, but efforts to organize are "met with violence by employers."

As far as the workers and their families are concerned, they live in lamentable conditions, particularly now, when children of eight or nine years of age are being considered as workers, and as such, are starting out on a long road of suffering. In the same way, we are witnessing a whole new generation who do not have the minimum requirements for a joyful childhood, but are faced at a premature age with a life of the greatest difficulty, for mere survival, without adequate food, health or benefits of education.

Another author concludes, "[i]t is abundantly clear that dependency on child labour recycles poverty and hopelessness by turning today's generation of child labourers into tomorrow's sick, unemployed, uneducated and unproductive adults who are tragic in their own lives and a burdensome weight on their countries' hopes."

2. Increased and Institutionalized Violence Against Children

For children who work in the streets, "about one in ten... become prone to engage in marginal and illegal work, such as begging and petty thieving." Some are recruited into crime syndicates that teach them to pickpocket, rob, traffic drugs and prostitute. In turn, these children, who serve the interests of organized crime, are responsive to violence, and are often the victims of violence themselves. Children working in the street

60. PETER LEE-WRIGHT, CHILD SLAVES 117 (1990) (citing J. Wyver, Child Labour in Brazilian Agriculture, in 6 CRITIQUE OF ANTHROPOLOGY 2, at 73 (1986)).
61. Id.
63. BELLAMY, supra note 7, at 41.
64. BELLAMY, supra note 7, at 41.
65. BELLAMY, supra note 7, at 40.
“must also contend with abuses from police officers, such as beatings, forced sexual relations, and extortion."

In 1993, during what is now known as the Igreja de Candelaria Massacre, Rio de Janeiro police officers executed eight street children while they slept in front of a Roman Catholic church. A report from one juvenile court in Rio indicates that street children working in the streets are killed each day at the request of merchants. When children are forced to look for work in the streets, their lives become viewed as expendable; and there is a serious deterioration in their social status in some parts of Brazil from a class of vulnerable and defenseless citizens, to public nuisance and enemies of the state.

III. ECONOMIC, SOCIAL AND LEGAL DIMENSIONS AFFECTING CHILD LABOR IN BRAZIL: AN HISTORICAL ANALYSIS

A. Child Labor in the Late Nineteenth and Early Twentieth Centuries

Industrial revolutions in England, France, Belgium, Germany, Prussia and the United States were built, in no small measure, on the backs of children. Apparently, a special relationship tends to emerge during processes of industrialization that draws children into the mechanism of technical evolution. In Brazil, this phenomenon is traced to the country's transition from slavery to free labor, precipitating an

69. See Goetz, supra note 66, at 148. "In order to survive, street children often resort to criminal activity, angering local businessmen who view the children as bad for business. In response to the crimes perpetrated by homeless children, many business people hire death squads to 'clean up the streets.' Id. See also Martha K. Huggins & Myriam Mesquita, Civil Invisibility, Marginality, and Moral Exclusion: The Murders of Street Youth in Brazil, in CHILDREN ON THE STREETS OF THE AMERICAS 257 (Roslyn Arlin Mickelson, ed. 2000).
70. CAROLYN TUTTLE, HARD AT WORK IN FACTORIES AND MINES: THE ECONOMICS OF CHILD LABOR DURING THE BRITISH INDUSTRIAL REVOLUTION 1 (1999).
71. Id. at 9-18.
"ideology of labor as a 'supreme principle' of social organization" which began during the late nineteenth century.\textsuperscript{72} An emerging capitalist economy in Brazil transformed slaves into free workers in 1889.\textsuperscript{73} Since this time, historians note that poor Brazilian children have always worked in agriculture and industry, essentially as slaves.\textsuperscript{74} Despite child protective laws decreed as early as 1891, legislative measures could not compete with the rural entrepreneurs and their peers in the industrial sectors who ardently advocated child labor in the 1920's and 1930s.\textsuperscript{75}

The exploitation of children in the early decades of the twentieth century... [shows] 'a considerable number of children, as young as age five, working in the manufacturing industry in 1901 as unpaid apprentices.' A 1917 edition of the newspaper \textit{O Jornal Fanfulla} refers to 'very young makeshift workers who can produce as much as an adult, but are paid a miserable wage.'\textsuperscript{76}

The decades following the early twentieth century brought radical shifts in demographics, which served to ingrain child labor even deeper into the fabric of Brazil's nascent process of industrialization.

\textbf{B. Child Labor in the Wake of Societal Transformation}

1. Urbanization and Child Labor

From the early 1930's a succession of reformations changed the face of Brazilian society as the country grappled with its metamorphosis from a predominantly agricultural society based on "export monoculture," to its contemporary industrial economic structure featuring modest industrialization and urban

\begin{itemize}
\item \textsuperscript{72} IRENE RIZZINI, ET AL., BRAZIL: CHILDREN'S STRENGTH IS NOT IN THEIR WORK 20 (Maria Cristina Salazar & Walter Alarc6n Glasinovich eds., 1998).
\item \textsuperscript{73} Id.
\item \textsuperscript{74} IRENE RIZZINI, DO PATRIO DEVER: HISTORICO DA LEGISLAÇÃO PARA A INFÂNCIA NO BRASIL, reprinted in FRANCISCO PILOTTI AND IRENE RIZZINI, A ARTE DE GOVERNAR CRIANÇAS: A HISTÓRICO DAS POLÍTICAS SOCIAIS, DA LEGISLAÇÃO E DA ASSISTÊNCIA À INFÂNCIA NO BRASIL, Rio de Janeiro: IIN/OAS, EDUSU and AMAIS (1995).
\item \textsuperscript{75} Id.
\item \textsuperscript{76} Rizzini, ET AL., supra note 72, at 21-22.
\end{itemize}
inundation. Demographic and social changes occurred on an epic scale, as its population redoubled and moved into urban areas between 1940 and 1970. Eighteen million people abandoned their lives in the Brazilian countryside and migrated swiftly to Rio de Janeiro and São Paolo from Northeast Brazil in the 1960's, and twenty four million followed in the 1970's. In 1970, more than half of the population lived in urban sectors, which rose to 75.6 % by 1990. The inability of the government to plan for massive urban growth led to gluts of unskilled laborers who sifted into the favelas (shanty towns) and mocambos (huts in the woods) on the city crests, bogs, and outskirts of the metropolises. In 1987, the Pesquisa Nacional por Amostra de Domicílios (PNAD - National Survey of Sample Households) found that 24.3 % of youths ages ten to seventeen work in these urban areas, most of whom migrate to work in the cities daily from the outlying favelas and mocambos.

2. Child Labor in Agricultural Sectors

In the agricultural sector, the work of children has scarcely changed from the days of slavery. Since the early 1800's, farming has been the predominant form of work performed by children in Brazil, and until today, laborers often do so in exchange for a daily meal. In the Northeast Brazilian sugar plantations, "whole communities have never escaped the plantations where their ancestors were slaves, still living in the same rudimentary housing conditions and doing the same back-breaking work as a hundred years ago . . . indistinguishable from slavery." In the 1950's through 1970, family labor in the agricultural workforce grew from 54 % to over 80 %.

78. Id.
79. Wright, supra note 60, at 114.
80. Wright, supra note 60, at 45.
81. Moulin & Pereira, supra note 77, at 44.
83. Wright, supra note 60, at 111-112.
84. Rizzini, supra note 74, at 25.
85. Wright, supra note 60, at 10-11.
86. Wright, supra note 60, at 111.
The Agricultural Census in Brazil recorded 4,581,500 working children by 1975, with 68% working more than forty hours per week. In sugar plantations north and south I saw armies of children as young as six years old slowly slashing their way through the passive opposition of cane, which stands twice their height.87

The 1980's observed a slight decline in children ages ten to fourteen working in agricultural sectors from 19% in 1981 to 17% in 1990.88 However, in 1990, at least 43% of all rural children in the ten to seventeen age group were working.89

3. Child Labor During the Military Rule of Brazil, 1964 - 1985

The radicalization of Brazil during its military regime, juxtaposed against its illegitimacy and indifference to social issues of the poor majority, left child labor largely unchecked and at all-time highs.90 By the end of the 1960's, the military dictatorship imposed an economic model termed the "Brazilian miracle," which marked a decline in inflation leading to significant economic development.91 This model however, continued to concentrate income and wealth into existing elite social classes, relying heavily on foreign capital.92 During the oil crisis of 1973, the economic model demonstrated flaws in its general conception, while for the next twenty years, Brazil generated an overwhelming increase in foreign debt and a surge in unemployment.93 Inflation rose exponentially while the wages of the working class remained set, in effect eroding worker purchasing power, diminishing standards of living, and "made workers, as a class poorer and poorer, and more and more miserable."94

Moreover, the military dictatorship's policy of repression frustrated Brazil's grass-roots emergence of non-governmental

87. Wright, supra note 60, at 111.
88. Rizzini, Et Al., supra note 72, at 25.
89. Rizzini, Et Al., supra note 72, at 25.
91. Id. at 139-44.
92. See Moulin & Pereira, supra note 77, at 45.
93. See Moulin & Pereira, supra note 77, at 45.
94. See Moulin & Pereira, supra note 77, at 45.
organizations (NGO’s) dedicated to assisting Brazil’s street and working children.95 Nevertheless, these organizations emerged during the early 1980’s responding to the rampant social dilemma facing its children, and the pressure of international criticism.96 Brazil’s heightened political activism during its transition to democracy in the mid-1980’s, ushered a fresh sensitivity to social issues, and the evolution of progressive social movements now operating in many regions of the country.97

C. A New Era of Child Rights in Brazil 1990 - Present

Simultaneous with international child right movements, Brazil commenced a new era in legislative protection for its children in the early 1980’s.98 This era began with “the emergence of a new concept of childhood supporting the rights of children.”99 In 1982, the Brazilian Government and UNICEF introduced the Alternative Services for Street Children Project, incorporating initiatives from emerging NGO’s and community projects to change social attitudes toward children “as active and responsible agents of their own destinies.”100 In 1985, partnerships formed between the children and volunteer ‘street educators,’ as part of the National Children’s Movement, which prompted a national sensation in 1986, bringing honor to the concept of child rights.101 This concept evolved into a movement associated with re-democratization, leading to significant social and legal advances in the reform of child labor rights.102 In 1992, former UNICEF Director James Grant heralded Brazil’s Child Rights reform as “the best child protection legislation in the world.”103 Some observe the movement in Brazil as “one of the most progressive transformations of laws protecting children and

95. See Klees, et al., supra note 49, at 90-91.
99. See Rizzini et al., supra note 72, at 22.
100. Bellamy, supra note 7, at 59.
youth seen anywhere in the world... The Child and Adolescent Statute has been characterized as a "sea change" in public policy toward children in Brazil."\(^{104}\)

1. Estatuto da Criança e do Adolescente (Child and Adolescent Act) 1990

The 1990 Child and Adolescent Act (Estatuto da Criança e do Adolescente (ECA) Federal Law No. 9.069) was enacted and incorporated into the 1988 Brazilian Constitution.\(^{105}\) The ECA replaced the Juvenile Code (Código do Menor) adopted in 1979, and affirms Article 227 of the 1988 Brazilian Constitution:

> It is the duty of the family, of society and of the State to ensure children and adolescents, with absolute priority, the right to life, health, nutrition, education, leisure, professional training, recreation, culture, dignity, respect, freedom and family and community life, in addition to safeguarding them against all forms of negligence, discrimination, exploitation, cruelty and oppression."\(^{106}\)

The emphasis in replacing the Juvenile Code was in perspective.\(^{107}\) Where the Code refers to the class as "juveniles or minors," the ECA refers to the "child" and "adolescent," alluding to a "stage in all human life," rather than a rigid age or legal classification.\(^{108}\) The movement aspired to associate this perspective with policies for the rights of children similar to those found in the United Nations' International Covenant on Civil and Political Rights\(^{109}\), and the Universal Declaration of Human Rights\(^{110}\) after which it was modeled.\(^{111}\) The ECA later

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106. BRAZ. CONST. (1988, art. 227).
111. See Id. at 86. See Office of the United Nations High Commissioner for Human Rights, Status of Ratification of the Principal International Human Rights Treaties 1-3 at
“became an inspiration to Latin American countries (Venezuela and Peru used the Brazilian model to create their own child code) and [received] effusive accolades from Unicef . . . ”

2. Brazil Adopts the International Rights of Her Children

In September 1990, Brazil ratified the UN Convention on the Rights of the Child\textsuperscript{113} consistent with the growing national movement and planned objectives in the child rights and general human rights theaters.\textsuperscript{114} In doing so, Brazil explicitly recognizes “the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.”\textsuperscript{115} In order to implement new social programs supporting these initiatives, from July 1990 until December 1999, Brazil adopted a variety of federal laws, normative instructions, and regulations explicitly outlining plans and programs to protect the rights of children.\textsuperscript{116}

In 1999, Brazil was the first country in Latin America to


\textsuperscript{114} See Status of Ratification, supra note, 111.

\textsuperscript{115} Convention on the Rights of the Child, supra note 113, at Art. 32(1).

\textsuperscript{116} See ILO Datalex, Brazil: Children and Young Persons Laws, (visited Feb. 27, 2001), at http://natlex.ilo.org/scripts/natlexcgi.exe?lang=E&doc=query&ctry=BRA&llx=12.01. These laws include: Law No. 8069 Establishing the Child and Adolescent Statute and to Decree of Related Matters; Order No. 1323 (August 7, 1991) to Pronounce Norms and Setting Rules for National Discussion on the Basic Document Outlining the Project “Minha Gente”; Law No. 8242 (October 12, 1991) Creating the National Council on the Rights of the Child and Adolescent (CONANDA) and Decree of Related Matters; Decree No. 359 (May 26, 1992) Stipulating the project “Minha Gente,” Created by Decree of May 14, 1991 and the Adoption of other Matters; Law No. 8642 (March 31, 1993) Planning for the Full Attention to the Child and Adolescent National Program and Institution (PRONAI\textsuperscript{C}A) and to Decree other Measures; Normative Instruction No. 1 (March 21, 1997) from the Secretary of Labor to Establish Pilot Projects in the States of Crearé, Goiás, Minas Gerais and Praiba to Combat Child Labor and Related Measures.
ratify the ILO Child Labor No. 182 (concerning the prohibition and immediate action for the elimination of the worst forms of child labor). During the same month, Brazil adopted ILO Convention No. 138, which establishes a minimum working age of fourteen years old. At the turn of the century, the ILO declared "Child Labour Tops the Agenda in Brazil." For the past decade, Brazil has constructed a comprehensive model featuring innovative and constructive social intervention programs, NGO and trade union alliances, and education reform, to complement the legal framework it designed to end harmful and exploitative child labor within her borders.

IV. O MODELO BRASILEIRO (THE BRAZILIAN MODEL): MILESTONES ON THE LONG ROAD AHEAD

A. Implementing a Child Labor Strategy

1. The International Labor Office (ILO) and Brazil: An Innovative Partnership Against Child Labor

In 1991, the International Labor Organization began preparing for its International Program for the Elimination of Child Labor (IPEC) by concentrating an attack on child labor in twenty countries where the problem was prevalent. The IPEC program is designed on a system of broad-based in-country partnerships to deal with child labor primarily from a developmental perspective, binding IPEC initiatives to national,


120. Toils for Tots, supra note 23.
economic and social policies. Considering the context of extreme poverty and parental unemployment (and underemployment), the ILO/IPEC aimed early on to change the futures of the 250 million children compelled to work (60 million of them in the worst forms of child labour). Brazil was the first country in the western hemisphere to sign a Memorandum of Understanding (MOU) with the ILO and immediately began developing its institutional strategy to address child labor in 1992.

Armed with a fresh but sophisticated legislative infrastructure, the Brazilian Government established the Child Labor Eradication Program (Programa de Erradicação do Trabalho Infantil, (PETI)) in 1992, which aimed at orchestrating the efforts of government with non-government efforts already underway. To this end, Brazil formulated legislation to breathe life into the National Forum for the Prevention and Elimination of Child Labor in 1994 and Integrated Action Programmes (PAIs) in 1995, fusing Non-government organizations (NGO’s); the Regional Office of the Ministry of Labor; employers’ and worker’s organizations; and local government sector initiatives into a comprehensive and unified front. The National Forum sets priorities for the avoidance and eradication of the worst forms of child labor, and first identified priority areas demanding immediate intervention. The statute implementing these programs was the first of its kind in Brazil, “transform[ing] the


122. Id.


126. Id.
government into a protagonist of NGOs revindications."

2. The Integrated Action Program (Programa de Ações Integradas - PAIs) Approach

PAIs are cooperative projects synthesizing spheres of social aid, education, health, law enforcement and social involvement. They reflect the ILO's "multi-sectoral strategy" which involves specific, situation-tailored analysis using various government and non-government resources directed squarely at localized groups of child workers and their families. The pilot PAI project was applied in the state of Mato Grosso do Sul in 1995, aimed at charcoal production sites, and has been expanded to "tea plantations, sisal production, rock quarries, sugar cane plantations and mines." The main program objective is to simultaneously stop the child from working and transplant him or her into an educational environment.

Because PAIs target many children who work to provide income to their families, the program necessarily focuses on the household unit. Preliminarily, the PAI provides financial means as immediate intervention while explaining to the family the federal, state, and municipal government and NGO assistance programs available to them. The second phase concentrates on permanent income generation and employment

127. Dalevi, supra note 112. (quoting Wanda Engel, PETI coordinator, Brazil).
128. Mainstreaming, supra note 125, at 1.
132. Id.
133. Id. at 3.
134. See Florencia Ferrari, Alerta Cidadania - Exclusão Social, JORNAL KLICKEDUCAO, at http://www.escoladeprofessor.com.br/Conteudo/Referencia/CDA/Item View/0,1655,1165-geografia-16,00.html (last modified Apr. 10, 2001); see also Mainstreaming, supra note 127, at 2. (This program is widely known as the “Bolsa-Escola” educational stipend program, which replaces income generated by children with government subsistence grants with proof of child attendance in school).
for the parents.\textsuperscript{136} Next, the program integrates these activities in communities where they find general incidences of child labor, based on disclosures and prior research.\textsuperscript{136} As the pervasiveness of child labor in the area is uncovered, assessed, and situationally analyzed, the PAI model uses technical groups to mobilize various social organizations to operate on the targeted families in the area.\textsuperscript{137} Once the operational scheme is designed, the PAI then redirects priorities on the federal sphere.\textsuperscript{138} Finally, successful programs are replicated and expanded as models for other areas or regions in Brazil, with care to address local characteristics and unique circumstances.\textsuperscript{139}

3. Universalizing Basic Education - “Bolsa Escola” Program

“Any improvement made to education - whether by changing existing schools, by setting up creative and flexible approaches to education or by targeting working children specifically - will have a positive impact on child labour.”\textsuperscript{140} Accordingly, the Ministry of Labor has followed the PAI framework, to coordinate the widely acclaimed “Bolsa Escola” Program (School Fellowship Program) with the Ministry of Social Welfare and Assistance,\textsuperscript{141} to ensure universal education among children through the promotion of their attendance and retention in schools.\textsuperscript{142} The program provides low-income families with monthly allowances, predicated on the child’s regular attendance in school.\textsuperscript{143} Helping to replace the meager but indispensable income the child brings

\begin{flushleft}
\begin{itemize}
  \item 135. \textit{Id.}
  \item 136. \textit{Id.}
  \item 138. \textit{Id.}
  \item 139. \textit{Mainstreaming, supra note 127, at 2; see also Ferrari, supra note 136, at 5; see also O Trabalho Infantil, supra note 130, at 3.}
  \item 140. \textit{Bellamy, supra note 7, at 51.}
  \item 142. \textit{Mainstreaming, supra note 125, at 2.}
\end{itemize}
\end{flushleft}
to the family, the initiative grants families R$50 (USD $27) to keep children safe from arduous and hazardous labor.144

Bolsa Escola was introduced in a bill before the São Paolo City legislature, who passed the legislation and launched the first program in the Federal District of Brasília,145 and now it has expanded to various states including Amapá, Amazonas, Bahia, and Pernambuco.146 In 1997, the government reported, "an estimated 2,100 children from charcoal and erva-mate production sites in mato Grosso do Sul and over 8,000 children from sisal and quarry processing in Bahia were able to leave backbreaking work and attend school," under the program.147 The fellowships have targeted the families of 147,000 children in rural areas and 202,000 children in urban settings.148 In Belo Horizonte, a pilot "Bolsa Escola" program cosponsored by UNICEF has helped more than 1,500 children, boasting a 92 % school retention rate.149

4. Involvement in Business Communities and Trade Unions

a. Business Community Action

The Abrinq Foundation for the Rights of Children, initially an association of Brazilian toy manufacturers, pioneered efforts to bring employers into the movement against child labor.150 Abrinq created the Child-friendly Companies program (Empresa Amiga da Criança), which distributes special product seals certifying the company does not hire children for production and that their suppliers also refrain from child labor exploitation.151

144. Lavinas, supra note 141, at 9-11.
145. Toils for Tots, supra note 23.
146. IACHR/OAS Report Brazil, 1999, supra note 143, at 8.
147. Mainstreaming, supra note 125, at 2.
149. Id.
150. Toils for Tots, supra note 23.
151. Id. See also Gay, supra note 6, at 94.
According to some reports, “[a]proximately 200,000 children have been helped through this seal.”\textsuperscript{152} Abrinq has sought pledges from those who hire child labor in order to bring the children out of “production chains of the charcoal, citrus and footwear sectors.”\textsuperscript{153} The program has enlisted the assistance of 300 businesses to provide community support including “financial adoption of day care centers, orphanages and community centers.”\textsuperscript{154}

In this vein, the Labor Relations Secretary and industry leaders have reached several agreements to lower drop-out rates by gaining support from companies who hire children.\textsuperscript{155} Similarly, the National Agricultural Workers’ Confederation (CONTAG) recently headed a sweeping business community crusade to distribute informational brochures, broadcasting radio programs on child labor using a variety of press releases and articles, and producing a national seminar against child labor.\textsuperscript{156}

\textit{b. Trade Unions and Child Labor Standards}

As powerful interest groups in Brazil, trade unions maintain a critical vantage from which to fight child labor.

[T]hey can monitor the working conditions of children and denounce child labour abuses. They are able to communicate to large numbers of adult workers the importance of education for their children, of protecting them against work hazards and of keeping them from premature engagement in the labour market. As a major pressure group, trade unions play an important role not only in collective bargaining at the workplace but in mobilizing support for the elimination of child labour and campaigning for policy change at all levels.\textsuperscript{157}

In Brazil, trade unions have inspired broad support for publicizing child labor and managed “to secure child labour

\textsuperscript{152} Toils for Tots, supra note 23.
\textsuperscript{153} ILO, TARGETING THE INTOLERABLE: A NEW INTERNATIONAL CONVENTION TO ELIMINATE THE WORST FORMS OF CHILD LABOUR, EMPLOYERS IN THE FIGHT AGAINST CHILD LABOUR. (1999) (on file with the University of Miami Inter-American Law Review).
\textsuperscript{154} Toils for Tots, supra note 23.
\textsuperscript{155} Toils for Tots, supra note 23. Examples include orange juice exporting conglomerate Abecitrus, footwear industry unions and associations in Franca, São Paulo.
\textsuperscript{156} Toils for Tots, supra note 23.
\textsuperscript{157} Bellamy, supra note 7, at 22.
clauses in contracts with employers in 88 municipalities in 8 federal states," by 1997. Similarly, "the Brazilian Association of Citric Exporters, which supplies 80% of the international market's orange juice pledged to eliminate child labour from its production." In 1998, Nelson Morelli, a Brazilian labor rights leader spoke to a convention of the International Brotherhood of Teamsters in Tampa, Florida, calling for U.S. juice companies (including Minute Maid) who import orange juice concentrate from Brazil, to certify that its products are child-labor free.

In the Vale dos Sinos region, in the southern state of Rio Grande do Sul, the shoe industry is notorious for its "high incidence of child labour...[where] manufacturers... give sub-contracts to workshops which, in turn, sub-contract to small home-based informal industries." Since 1996, IPEC's ASBEM (an NGO initiative), sought to furnish new opportunities to child laborers in the Vale dos Sinos municipalities of Novo Hamburgo and Dois Irmãos. Under the mandates of the Permanent Forum for the Elimination of Child Labor, the Regional Office of the Ministry of Labor along with employers' and workers' organizations in the region successfully negotiated industry-wide standards against child labor embodied in its "Terms of Commitment." Subsequently, the project developed its "Code of Conduct," which details labor standards reflecting a concerted effort against child labor, and the "Code of Conduct" has been adopted industry-wide.

As a result of the project, 149 child workers were withdrawn from work in the municipalities of Novo Hamburgo and Dois Irmãos and provided with rehabilitation. Many of these children have been mainstreamed into special education centres that provide extra-curricular activities and other support services.

An evaluation of the project is forthcoming, but varying reports are emerging from the area on the effectiveness of the program.

158. Bellamy, supra note 7, at 22.
159. Bellamy, supra note 7, at 64.
160. Gay, supra note 6, at 94-95.
162. Shoe Industry, supra note 124.
163. Shoe Industry, supra note 124.
164. Shoe Industry, supra note 124.
165. Shoe Industry, supra note 124.
166. American Chamber of Commerce Brazil, Sotaque Brasileiro, at
5. Rehabilitation to Vocation: Street Education

The Child and Adolescent Act of 1990 attempts to reverse the decades of Brazil’s military rule, where the common practice of the state in dealing with street and working children responsible for crime typically lead to incarceration.\footnote{167} Brazil’s new paradigm revolves around a regime of "assisted freedom," granting young persons involved in street work and criminal activity a chance to repair damages and regain their lives.\footnote{168} Applying assisted freedom principles, the Catholic Archdiocese of Rio de Janeiro responded to the city’s growing problem involving "street and working children," with Projeto Semear in 1987.\footnote{169} The project is situated on eleven acres at the foot of a mountain near a nature preserve in the Bangu neighborhood of greater Rio de Janeiro.\footnote{170}

The project operates on the principle of "não pivetes," which refers to a concept devoid of the stigma of the delinquent or mischievous child (pivete).\footnote{171} The approach integrates aspects of recreation, scholastics, and fundamental job preparation through an appeal to the child’s mental, moral, spiritual and social development, rather than transplanting the child into the unfamiliar regiment of formal education.\footnote{172} The program has assisted 1,200 at-risk adolescents in Rio de Janeiro, and sixty to seventy of these adolescents find apprenticeships each year through the program’s Pleitar and Integração components.\footnote{173}

In Salvador, Brazil’s third largest city, one project, Projeto Axé, gained political and legal support from the National


\footnote{167. Dalevi, \textit{supra} note 112.}{168. Dalevi, \textit{supra} note 112. (Describing the CASE Program (Comunidade de Atendimento Sócio-Educativo - Community of Socio-Educational Care) a service provided by the Labor and Social Action Secretariat at Bahia created in 1998 for youths involved in criminal activities. "The place, which has 86 youngsters at the moment, looks more like a house than a prison as most similar institutions do. There the kids receive a formal education, practice sports and learn the arts, besides learning a profession. Among several courses offered, they can learn about computers, graphic arts, horticulture, and how to make bread.")}{169. Quieroz & Elliot, \textit{supra} note 38, at 193-95.}{170. Quieroz & Elliot, \textit{supra} note 38, at 196-97.}{171. Quieroz & Elliot, \textit{supra} note 38, at 197-204.}{172. Quieroz & Elliot, \textit{supra} note 38, at 197}{173. Quieroz & Elliot, \textit{supra} note 38, at 201-202.}
Movement of Street Boys and Girls of Brazil (Movimento Nacional de Meninos e Mininas de Rua (MNMMR)) in 1990.\textsuperscript{174} The program involves the identification of "socially excluded" children, and uses innovative processes of relationship, psychology, and social pedagogy, premised on the "constructivist principle," that the pupil is a subject of intelligence and of knowledge, who is endowed with a structure that is capable of learning contents and constructing bodies of knowledge and of achieving higher-level rational structures, provided he or she is furnished with the kind of environment necessary to that development.\textsuperscript{175}

The program features highly trained "street educators," who systematically reconstruct and reorient the child to his or her citizenship as a young person of Brazilian society.\textsuperscript{176} The Axé approach taps into the children's emotional, cultural, and social fabrics in order to rehabilitate them from the harshness of street living and laboring; to integrate them into an educational or vocational training environment; and eventually "to steer them into the formal labor market."\textsuperscript{177}

6. Research, Enforcement and Monitoring

It is true the phenomenon of child labor is elusive, transitory, illegal; and therefore, subject to special sampling problems, which aggravates its research, monitoring and enforcement.\textsuperscript{178} Still, national statistical programs remain an important tool for policy changes, allocation of resources, and gauging the efficacy of program initiatives.\textsuperscript{179} In May 2000, the

\begin{itemize}
\item \textsuperscript{174} See Almeida and de Carvalho, supra note 102, at 174.
\item \textsuperscript{175} Almeida and de Carvalho, supra note 102, at 175.
\item \textsuperscript{176} Almeida and de Carvalho, supra note 102, at 175-76.
\item \textsuperscript{177} Almeida and de Carvalho, supra note 102, at 174-80. The process involves three independent steps: 1. Pedagogical flirting: Initial contacts with the children and youth are made and street education begins; 2. Pedagogical romance: the dialogue has been established and ties are formed between the instructor and the pupil, still in the street; and 3. Pedagogical coziness: The young person is now integrated into Projeto Axé activities and is making new plans for his life. Usually this means he is moving off the street." Id.
\item \textsuperscript{178} See generally, Fúlvia Rosemberg, From Discourse to Reality: A Profile of the Lives and an Estimate of the Number of Street Children and Adolescents in Brazil, in CHILDREN IN THE STREETS OF THE AMERICAS (Reslyn Arlin Mickelson ed., 2000).
\item \textsuperscript{179} ILO/IPEC, 15 Examples of Selected Successful Action Programmes: Statistical Information and Monitoring Programme on Child Labour (SIMPOC), at http://www.ilo.org/public/english/standards/ipec/about/factsheet/expls-93/exampl4.htm
\end{itemize}
Brazilian Institute of Geography and Statistics (Instituto Brasileiro de Geografia e Estatística (IBGE)), the State Secretary of Social Action (Secretaria do Estado da Ação Social (SEAS)), and the Ministry of Labor organized a technical meeting to sharpen their research questionnaire as part of the ILO/Brazil Statistical Information and Monitoring Programme (SIMPOC) project. The SIMPOC project coordinates ILO/IPEC initiatives with the ILO's Bureau of Statistics to assist individual countries like Brazil in developing a five-year plan to generate comprehensive national, sub-regional and regional quantitative and qualitative data on the dynamics of child labor. The data will provide Brazilian policymakers with more elaborate and accurate data to assist in the design, implementation, monitoring and assessment phases of their national and local programs. Questions focus on the pervasiveness of child labor; associated demographics; child labor occupations and work conditions; types of exploitation; educational opportunities; level of domestic employment; and the familial status of the children working. SIMPOC is scheduled as part of Brazil's household survey in 2001, and the results and trend analyses are expected by 2002.

The results of this research will enable the Ministry of Labor and Employment to more effectively tailor its regular inspections run by specially trained inspectors who monitor child labor in Brazil. Further, the Ministry of Labor has arranged an inter-ministerial working group committed to improve labor

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[last modified Oct. 18, 2000]. "The National Survey of Child Labour in the Philippines is an example of ILO-IPEC assistance to develop a dependable database for the formulation of policy and national programme of action on child labour . . . [and] stands out as an example of how a national statistical programme can be successfully used as important tool for policy changes, concrete action as well as advocacy." Id.


182. Id.

183. Id.


185. GLOBAL MARCH, Steps in the Right Direction, supra note 180.
inspection. Essentially, trained officials are allowed to visit work sites, noting the conditions of employment and empowered to take actions to ensure that employers conform with child labor laws. Effective labor inspection is integrally linked to the elimination and prevention of child labor, as well as "in changing attitudes towards it among those sections of the community which had previously accepted it." Although enforcing the law and prosecuting violations is difficult and costly, "the mere fact that inspectors target child labour can publicly expose the issue and lead to change."

B. Brazil's National Program into the Millennium

The Child Labor Eradication Programme (PETI) has resolved to remove 866,000 children from work and place them into developmental environments by the end of 2002. Accordingly, the federal government pledged at the end of 1999 to allocate R$1 billion in the "Plano Plurianual" (PPA), and to efficiently use its budgetary and technical resources. The national plan also appropriated more than $3 million to target 20,000 children oppressed by prostitution. Included in the national plan are components addressing the special circumstances of the girl child, and specifically targeting sexual violence and sexual exploitation of children.

Today, all twenty seven states in Brazil have incorporated a State Forum to administer local programs within the National Forum network. Equipped with thirty three federal

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187. Id.
189. Id.
194. ILO/IPEC, Country Program Progress Report: Brazil, August 2000 cited in
programs\footnote{MINISTÉRIO DO TRABALHO E EMPREGO, Erradicação Trabalho Infantil, Ações de Combate ao Trabalho Infantil, at http://www.mtb.gov.br/sit/trabin/acoes/acoes.asp (last visited Apr. 1, 2001).} under five separate ministries; billions of \textit{Real} earmarked;\footnote{U.S. State Report on Brazil 1999, \textit{supra} note 148.} hundreds of non-government intervention entities; and one of the world's most comprehensive child labor legal schemes, it would appear that Brazil has the problem of child labor under wraps.\footnote{U.S. State Report on Brazil 1999, \textit{supra} note 148.} Unfortunately, nothing could be further from the truth because "both the magnitude and nature of [children's rights] problems remain the same and in few cases have there been qualitative changes that have entailed an effective alleviation of the harsh situation endured by broad sectors of the child and adolescent population in Brazil."\footnote{IACHR/OAS Report Brazil 1999, \textit{supra} note 143.}

\section*{C. Challenges and Limitations}

\subsection*{1. Child Labor Persists}

Although Brazil's national forum for the prevention and eradication of child labor has significantly reduced the general incidence of child labor,\footnote{Brazil Country Report 1996. "Federal, state, and local governments devote insufficient resources to street children. NGO's sponsor relief efforts, but demand far outstrips available resources." \textit{Id}.} the elusive contours of this problem are ever-expanding and simply overwhelming its administrative, social and legal frameworks.\footnote{Ferrari, \textit{supra} note 134, at 3.} Studies from 1995 and 1999 demonstrate that incidence of children laborers ages five to nine years has lowered from 519,000 (or 3.2 \%) to 375,000 (or 2.4 \%).\footnote{Moulin & Pereira, \textit{supra} note 77, at 50-51. (Valladares and Implizieri (1992) identified 620 NGOs in Rio de Janeiro).} Child laborers ages 10 to 14 have also declined from 3.3 million in 1995 to 2.5 million in 1999 (from 18.7 \% to 14.9 \%). However, even after Brazil's passage of legislation raising the minimum
work age to sixteen in December 1999, Brazilian reports still estimate that approximately 7.7 million children and adolescents between the ages of five and seventeen continued to be part of the labor force, which indicates significant, but comparatively modest progress in the past decade.

Ten years after ECA’s introduction, however, child labor is still a serious problem, and education and health care are far from universal. Institutions dedicated to children inspired by a mode that stresses punishment and repression are still thriving and hiding thousands of minors inside their walls. And public defenders continue without resources and infrastructure to do what the law asks them to.

Further, in the sugar cane plantations in northern Rio de Janeiro, children and adolescents who run the twelve mills in the region still represent one fifth of the overall work force employed there. The Bolsa Escola program in that area is addressing the forty thousand dropout children working in the plantations by paying a $50 stipend to families where the children regularly attend classes, “but the Pernambuco Federation of Agriculture Workers (Fetape) says it has been progressing at a snail’s pace.” Where implemented, particularly in Brasilia, some cash transfer programs operate at the discretion of several “evangelical churches,” issuing “citizen’s checks,” which operate like food stamps to the churches’ faithful.

2. Absenteeism and Drop-outs

Even where many children have left the work field, they still

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203. IACHR/OAS Report Brazil 1999, supra note 143.
204. Luciana Garbin, O Tabalho Infantil Ainda Recruta 7,7 Milhões, CIDADES, at http://www.estado.com.br/editoria/2000/07/10/cid181.html (last modified July 10, 2000); see also Toils for Tots, supra note 23. “A few years ago, IBGE published a study called Brazilian Social Inequality Features, according to which almost 8 million children and teenagers worked at the turn of the decade (3.6 million worked and went to school at the same time” Toils for Tots, supra note 23.
205. Dalevi, supra note 112.
206. Toils for Tots, supra note 23.
207. Toils for Tots, supra note 23.
208. Lavinas, supra note 141, at 9.
may not have returned to school. Despite a recent Ministry of Education study demonstrating an overall increase in primary and secondary school enrollment, "school failure and absenteeism remain a grave problem, given that almost half Brazilian children do not manage to complete basic education." In some areas, the child laborer has difficulty adjusting to an educational environment and after receiving some of the stipend, returns to the familiarity of the worksite. "This project has to guarantee the education until the teenagers can change their lives, and it has to last at least until high school, otherwise we are throwing the money away." To exacerbate the problem, there is no community support for the Bolsa Escola program in some areas, and the Federal District who conceived the Bolsa Escola program has completely abandoned it, even where progress was showing. More seriously, families are entitled to the Bolsa Escola program for only one to two years, which makes the continued feasibility of the program attenuated.

3. The Conundrum of Enforcement

Just as the ILO hailed the efforts of Brazil to practically eliminate child labor in the shoe industry at Vale do Sinos in the State of Rio Grande do Sul, reports from the area indicate a different reality. Instead of working inside of the factories, children work in private studios, or inside their homes in arrangements of "quarterização" or "sub-subcontracting." In most instances, the factories provide materials to fashion shoe buckles to people known in the neighborhood for operating private child labor studios, who in turn distribute the material among the children. Even for factories interested in preventing child labor, this type of adaptation is very difficult to monitor.
control, or even to see.218

Carlos Gilberto Koch, President of the Shoe Makers Union, said recently “child labor at home always existed, but now the subcontract of the child labor is exonerating the factories and passing the problem on to the parents.” Transferred inside of the home, child labor is invisible to inspectors who cannot enter the homes without prior authorization.219 Susana Marquest of the local Ministry of labor guarantees that child labor has been eradicated in Novo Hamburgo, “in the formal studios it doesn’t exist, but I can’t put my hands in the fire in relation to the informal ones...”220 In Porto Alegre the representative of the state Forum for the Prevention and Eradication of Child Labor, Eridan Magalhães, believes “in Novo Hamburgo child labor exists in small studios and in family homes and the neighboring cities the exploitation still exists inside of the factories.”221 In farming communities child labor is so pervasive because the culture ingrains the work of children into the social fabric.222 The problem with enforcement, says one commentator, begins with Brazilians themselves.

Brazil hasn’t learned the meaning of citizenship. The majority of citizens do not have their rights effectively protected, although they are guaranteed by law... Police forces represent the law, but break the law themselves. Politics represent the people, but serve their own interests. They are corrupt. The result is an immense state of social exclusion where citizens are deprived of their own rights.223

Others attribute the continuity of the problem primarily to the economic crisis and unemployment.224

4. The Impact of Economic Crisis

The current economic crisis in Brazil may further jeopardize
these programs in the near future and reverse the progress of Brazil's general anti-child labor movement. The global financial crisis that began in Asia in 1997, spread to Russia in 1998, and besieged Brazil in 1999. In January 1999, Brazil allowed its Real to shift against the dollar, which devalued it approximately thirty-six percent, leading to a striking plummet in its stock market and an unofficial unemployment rate close to 20 percent (officially 7.9%) in April through September 1999. By contrast, Brazil’s official unemployment rate in the late 1980's and early 1990's hovered around three percent. Coinciding with elevating unemployment, Brazil also encountered the ballooning of its foreign debt to US$228, which precipitated inflation and an increase in costs for fundamental subsistence: the cost of buying a basic food basket rose three and a half percent in January, 1999. This translates into a new wave of poverty where “[c]hildren become essential wage earners in this economic context... contribut[ing] to their families’ subsistence and, in some cases of those truly homeless children, their own survival.” Despite progressive child protective laws and the notoriety of their plight, children will continue to suffer from the poverty afflicting their families. They must continue to work in formal and informal economies in order to survive, ultimately perpetuating the vicious cycle endowed to them, seemingly as birthright. However, abandonment of the effort at this point can only intensify the problem, as positive shifts in paradigm and social movement are beginning to take shape.

5. Regionalizing Efforts

Despite systemic and cultural impediments, the country of Brazil has contributed to a better life for millions of its youngsters who are increasingly viewed as citizens with rights, influencing other regions of Latin America. For some time now,

226. Mickelson, supra note 47, at 23.
228. Id.
229. Id.
230. See Mickelson, supra note 47, at 23.
231. See Mickelson, supra note 47, at 23.
232. See Mickelson, supra note 47, at 23.
the ILO has been developing regional plans with funding from the US Department of Labor which includes Brazil. Trade unions and NGO's in Brazil and other Latin American countries are beginning to regionalize their child labor efforts; pooling resources and sharing experience and knowledge, which promises a more sustainable approach to child labor. Taking these advances to a logical progression, a regional system involving the Organization of the American States (OAS) may help to institutionalize and sustain advances in the fight against child labor, even when individual countries like Brazil cannot maintain their momentum.

V. THE INTER-AMERICAN HUMAN RIGHTS SYSTEM

A. Legal Basis for the Organization of American States' Human Rights System

Modeled after Europe's regional human rights system, the legal foundations of the Inter-American Human Rights system rely on the American Convention on Human Rights (American Convention) and the Charter of the Organization of the American States (OAS Charter). The OAS Charter was adopted at the end of World War II in 1948 at the Ninth International Conference of American States in Bogota, with a

238. See Ninth International Conference of American States, Mar. 30-May 2, 1948 in THE INTERNATIONAL CONFERENCES OF AMERICAN STATES 1942-1954, 51 (Pan American
primary focus of preserving human rights in the Americas. The American Convention entered into force in 1978 and conceived a two-tier system incorporating the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights as the enforcement organs of the Inter-American Human Rights system. The system’s legal authority rests on a system of multilateral consent and ratification. Today, thirty of the thirty-six American States have ratified the Convention and are members of the OAS, including Brazil.

1. The Charter of the Organization of American States

At its adoption in 1948, the OAS Charter focused on the fundamental rights of the individual, with scant reference to children’s rights. Article 49(a) instructed that member states “will exert the greatest efforts, in accordance with their constitutional processes, to ensure the effective exercise of the right to education, on the following bases: (a) Elementary education, compulsory for children of school age...” In fact, the Charter tersely specified human rights, significantly, as they appear in Article 3(l), “the fundamental rights of the individual without distinction as to race, nationality, creed or sex.”

2. The American Convention on Human Rights

The American Convention was adopted in 1969, entered into force in 1978, and significantly broadened the Inter-American notion of fundamental human rights. The Preamble to the...
Convention clarifies its purpose: "to consolidate in this hemisphere, within the framework of democratic institutions, a system of personal liberty and social justice based on respect for the essential rights of man. To this end, Articles 1 through 32 (Part II) of the American Convention enumerate the human rights protected and affirm the duties of states as members. Articles 33 through 82 (Part III) establish the independent enforcement bodies of the Convention: the Inter-American Commission on Human Rights (the Commission); and the Inter-American Court of Human Rights (the Court). Prior to the passage of two critical resolutions however, neither the Charter nor the Convention articulated a standard defining these rights.

3. The American Declaration of Human Rights and The American Charter of Social Guarantees

Also at the Ninth International Conference of American States in 1948, the delegates adopted the American Declaration of the Rights and Duties of Man (American Declaration), and the Inter-American Charter of Social Guarantees. The American Declaration was not incorporated by reference to the charter, nor by its own terms did it retain the force of positive law. Nevertheless, the Declaration has evolved into an authoritative text articulating fundamental human rights observed in the Americas, particularly after the Court in 1989 issued its Advisory Opinion No. 10, bolstering its legal might.

Today, the Declaration is considered a source of customary

247. See American Convention, supra note 240, at Preamble.
248. See American Convention, supra note 240, arts. 1-32.
249. See American Convention, supra note 240, arts. 33-82.
250. See American Convention, supra note 240, arts. 33-82.
251. See Ninth International Conference, supra note 238, at 161.
252. See American Convention, supra note 236.
international law," and is credited with inaugurating the concept of child rights into the Inter-American lexicon under Article VII, "all children have the right to special protection, care and aid." Although the Inter-American Charter of Social Guarantees has not attained the legal notoriety of the American Declaration, it similarly protects "children under fourteen from being employed and children under eighteen from engaging in dangerous work, and commits the states to guaranteeing conditions enabling minors to complete basic education."

B. The Inter-American Commission on Human Rights

Established in 1959, the Commission's primary duty involves promoting and defending human rights in the Americas, as an advisory body to the OAS. Amended in 1965, the Commission's statute gave it authority to "examine communications submitted to it and any other available information . . . so that it may make recommendations . . . with the objective of bringing about a more effective observance of human rights."

The amended statute requires States accused of human rights violations to respond to allegations, and authorizes the Commission to publish its findings of facts, conclusions and settlements. The new statute also provides for inter-state complaints, friendly settlements, and on-site investigations. Further, the statute endows the Commission power to request

261. See Bol, supra note 59, at 1200.
262. See Padilla, supra note 260, at 95-96 (quoting Statute of the Inter-American Commission, art. 18).
advisory opinions from the Court regarding the American Convention or other relevant human rights treaties. The General Assembly approved the Statute in October 1979, which outlines the Commission's three primary functions: 1) processing individual complaints regarding allegations of human rights violations; 2) preparing reports on the status of human rights in the individual member states; and 3) proposing human rights initiatives to the OAS to promote contemporary human rights in the region. Since the 1980s, the Commission remains the primary vehicle for regional observation of human rights violations in the Americas.

1. The Complaint Process

The dual competence of the Commission allows it to receive complaints from both state parties alleging that another Member State has violated the American Convention; and from any person(s) or non-governmental organization legally recognized in a Member State alleging a similar violation. Although a Member State has never brought a petition against another State; NGO's and individuals have successfully engaged this mechanism to gain access to the Commission's investigatory review function, and to the Court, through Commission referral.

According to Article 46 of the Convention, a complaint must satisfy procedural requirements before the Commission may proceed on its prosecution, to include: 1. A statement of the facts giving rise to the alleged violation, and the name of the responsible state; 2. Proof of exhaustion of local remedies in accordance with international law; 3. Filing the petition within six months of notice of final judgment affecting the rights of the party alleging a violation; 4. The exclusivity of the Inter-

265. See American Convention, supra note 236, art. 41.
266. Mower, supra note 235, at 68.
267. See American Convention, supra note 236, arts. 44 & 45.
American system as an international forum for judicial relief; and 5. The name, nationality, profession, domicile, and signature of the person or legal representative advancing the petition.\(^{269}\)

Once the Commission receives a petition that satisfies procedural requirements, it may request information from the State who must cooperate,\(^{270}\) or risk the Commission's option of issuing a notice applying Article 42 of its regulations which establishes facts in favor of petitioner.\(^{271}\) Article 47 requires the Commission to declare inadmissible any petition: 1. failing to state facts which tend to establish a violation of a protected rights; 2. which is meritless or out of order; or 3. is in substance identical to a complaint the Commission or another international judicial forum or organization has previously entertained.\(^{272}\) The Commission may find the issue amenable to friendly settlement,\(^{273}\) or it may transmit a confidential report with its conclusions of law and recommendations to the State Member.\(^{274}\) After three months, if the State does not address the recommendations, the Commission may refer the case to the Court or publish its final report, whereby it is incorporated into the Commission's Annual Report presented before the General Assembly of the OAS.\(^{275}\) Since its inception, the Commission has referred only one case to the Court for an adjudication regarding a child's rights,\(^{276}\) and has never referred a case involving child labor.\(^{277}\)

\(^{269}\) See American Convention, supra note 236, art. 46; see also Padilla, supra note 262, at 95-96 (quoting Statute of the Inter-American Commission of Human Rights, art. 34).

\(^{270}\) See American Convention, supra note 236, art. 48(1)(d).

\(^{271}\) See Commission Regulations, supra note 259, art. 42.

\(^{272}\) See American Convention, supra note 236, art. 47; MOWER, supra note 235, at 71.


\(^{274}\) See American Convention, supra note 236, art. 50(1)(2); see also Advisory Opinion No. 13/93, Inter-American Court of Human Rights, OEA/ser.L/VIII.29doc.4 (Jan. 10, 1994) (Spanish).

\(^{275}\) See American Convention, supra note 236, art. 51; Advisory Opinion, No. 13/93, Inter-American Court of Human Rights, OEA/ser.L/VIII.29doc.4 (Jan. 10, 1994 (Spanish).


\(^{277}\) See Dulitzky & Tapia, supra note 288, at 274.
2. On-site Investigations and Reporting

A second Commission function is prescribed in Article 18 of its Statute involves the on-site investigation of human rights situations in individual countries. As stipulated in Article 59, Commission investigators must have free access to privately interview any persons, groups, or institutions with information relevant to their inquiry. These reviews are initiated at the Commission's prerogative, or on request by a particular State Member or body politic of the OAS, with the consent of the subject State. The Commission's intent behind conducting country inspections entails "bringing human rights violations to the attention of the world community and to send a message that such violations would not be tolerated." Recent activity of the Commission includes its Report on the Situation of Human Rights in Brazil (1997), the Dominican Republic (1999) and Peru (2000) in which it made a series of recommendations in each report with respect to the rights of the child, and wherein the Commission touched lightly on issues of child labor.

3. Progressive Human Rights Measures

Finally, the Commission's Statute requires it to periodically recommend "progressive human rights measures" to the governments of the OAS. Operating as a clearinghouse of

278. See Padilla, supra note 260, at 96-97, n.7.
279. See Commission Regulations, supra note 259, art. 59.
280. See Commission Regulations, supra note 259, art. 58.
286. See Padilla, supra note 260, at 97 (quoting Statute of the Inter-American Commission of Human Rights, art. 18).
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diverse interests, the Commission can request information on a range of human rights measures adopted by the individual States, and prepare studies and reports concerning such measures.\textsuperscript{287} A report is then generated to the government concerned and may be published after securing the subject State's observations, or it may be released in its original form after a deadline for State observations has passed.\textsuperscript{288}

Finally, the Commission may also include progressive human rights measures in its annual report made to the OAS General Assembly where it reports the Commission's activities and progress made toward fulfilling the objectives of the American Convention.\textsuperscript{289} In 1999, the Commission proposed in its annual report a recommendation to eradicating the recruitment of children and their participation in armed conflicts, wherein the Commission urged American states "to repeal any laws or regulations that permit conscription or voluntary enlistment of adolescents under the minimum age allowed by international instruments . . . forbidding the recruitment of minors of 18 years to participate in armed conflicts."\textsuperscript{290}

4. Special Rappoteur on the Rights of Children

The Commission may also engage special rapporteurs and working groups where clusters of human rights issues converge.\textsuperscript{291} The Commission has appointed special rapporteurs to monitor a variety of issues including those involving displaced people, women's rights, indigenous people, prison conditions and freedom of expression.\textsuperscript{292} During the 100\textsuperscript{th} regular session of the Inter-American Commission, Dr. Helio Bicudo (Brazil) was named "to study and promote activities for evaluating [the children's] situation and to propose measures for member states

\begin{footnotes}
\item[287] MOWER, supra note 235, at 71.
\item[288] See Padilla, supra note 260, at 95-97 (quoting Statute of the Inter-American Commission of Human Rights, art. 62).
\item[289] MOWER, supra note 235, at 72.
\item[291] Grossman, supra note 282, at 18.
\item[292] See Dultzy & Tapia, supra note 268, at n.109.
\end{footnotes}
to take.\footnote{293}

In the first report of the Rapporteur on the Rights of the Child, Dr. Bicudo outlined his objectives in October 1998 to include: “1) specialization and professionalization of the law on children and adolescents; 2) Child exploitation, in its various forms; 3) The impact of socioeconomic factors on the human rights of children."\footnote{294} In 1999, the Special Rapporteur was urged to include the Commission’s Recommendation for Eradicating the Recruitment of Children and Their Participation in Armed Conflicts in the Commission’s Annual Report.\footnote{295} Additionally, the Commission’s Special Rapporteur has been coordinating efforts with one of the specialized organs of the OAS, the Inter-American Children’s Institute in Montevideo, Uruguay, discussed infra at this part (Part V), subsection “D” of this Note.\footnote{296}

C. The Inter-American Court of Human Rights

The Inter-American Court is an autonomous organ of the Inter-American system, established on November 22, 1969, with the adoption of the American Convention in San Jose, Costa Rica.\footnote{297} The OAS General Assembly approved the Statute of the Court in 1979, defining it as “an autonomous judicial institution whose purpose is the application of the American Convention on Human Rights."\footnote{298} The Convention imparts two distinct judicial functions to the Court: an advisory; and a contentious jurisdiction.\footnote{299}

1. Contentious Jurisdiction

Under this authority, the Court has binding jurisdiction over

\footnotesize{295. See IACHR Child Soldiers, supra note 290, at 1.}
\footnotesize{296. See Commission Activities 1998, supra note 293, at 3.}
\footnotesize{298. See id.}
\footnotesize{299. American Convention, supra note 236, arts. 61-65.}
matters concerning the interpretation and application of the Convention. Once the Court finds a violation, it may exercise discretion to fashion a remedy for the right violated right, and where appropriate, order fair compensation to the victims. The statute requires that only the Commission, or parties who have recognized the compulsory jurisdiction of the Court may submit a case before it. Cases invoking the Court’s contentious jurisdiction are final and not subject to appeal, but parties dissatisfied with a particular judgment may request a clarification from the Court within ninety days of notification of judgment. The Court has recently decided a case involving the slaying of five Guatemalan street children applying international, national and Inter-American law. This case establishes important legal precedents relating to the nature and pervasiveness of street children and their rights, but to date the Court has not entertained a case adjudicating international rights proscribing child labor. Notably, Brazil accepted the Court’s compulsory jurisdiction on December 10, 1998, in accordance with Article 62 of the American Convention.

2. Advisory Jurisdiction

Observers view the consulting services of the Court as “the most extensive advisory jurisdiction of any international judicial body.” Any OAS Member state may request an advisory opinion in regard to the interpretation of Inter-American instruments protecting human rights. Moreover, Article 64 of the Convention expands its advisory opinions to include ‘other treaties concerning the protection of human rights in the American states.” Further, any OAS member may request

300. See American Convention, supra note 236, art. 62.
301. See American Convention, supra note 236, art. 63(1).
302. See American Convention, supra note 236, art. 61(1).
303. See American Convention, supra note 236, arts. 67-68.
304. See Guatemalan Street Children Case, supra note 276.
305. See Dulitzky & Tapia, supra note 268, at 284 - 89.
308. See American Convention, supra note 252, art. 64(1).
309. See American Convention, supra note 252, art. 64(1).
advisory opinions to determine the compatibility of the country’s domestic laws with the Convention or ‘any other treaty’ referred to in Article 64. In 1982, Peru requested an advisory opinion as to the extent of this jurisdiction. The Court concluded in its advisory opinion that it did indeed possess an advisory jurisdiction, “more expansive than that of all other international courts.” Further, the Court held that a request for an advisory opinion would exceed the limits of its jurisdiction if it “raised issues concerning the obligations of non-OAS member states or non-OAS bodies or organs . . .” In essence, its powers extend to the interpretation of any international human rights treaty where it bears directly on the human rights in a Member State. Although advisory opinions are not binding, they tend to ease political strife, theoretically resolve issues, convey immense moral force, and bring awareness, attention and focus to important human rights issues. To date, the Court has published 16 advisory opinions, yet none have address child labor or even the broader spectrum of child rights.

**D. The Inter-American Children’s Institute - A Specialized Organization of the OAS**

The OAS Charter outlines various general organs under Article 51, but also refers to the “specialized organizations,” or permanent institutions of the OAS system. The Charter defines them as “inter-governmental organizations established
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by multilateral agreements and having specific functions with respect to technical matters of common interest to the American States. Currently six organizations maintain this status: the Inter-American Commission of Women, the Pan American Health Organization, the Pan American Institute of Geography and History, the Inter-American Indian Institute, the Inter-American Institute for Cooperation on Agriculture, and the Inter-American Children’s Institute (INN).

The INN was established in 1927, and remains a permanent institution to the OAS in Montevideo, Uruguay. Since 1989, the OAS General Assembly and the Directing Council of the INN, has been responsible for the inter-American plan of action for needy children, currently consisting of the programs on prevention of drug dependency, rights of the child and the family, rights of disabled children (PANDA), social policies for children (PROINFBI and ALIP), information for children and family (PIINFA) and Civil Registry for Vital Statistics.

In 1997, the General Secretariat ordered the restructuring of the “administrative dependencies” aligning all of the specialized organizations under the purview of the Office of the Assistant Secretary General, and redefined the INN mission.

Under the Office of the Assistant Secretary General, the INN carries out a variety of mandates including:

1. Providing technical and administrative services to the Pan American Child Congress and the INN Directing Council, and assisting in carrying out their resolutions;

318. OAS Charter, supra note 237, art. 130.
2. Organizing, coordinating, directing, and supervising the operations of the Institute's Work Program, including seminars, research and training centers;

3. Providing assistance to and coordinating with the host country for meetings for the Pan American Child Congress;

4. Entertaining requests from Member States for measures to improve the welfare of children, the family and the community;

5. Administering and executing programs and projects to promote the study of problems related to motherhood, infancy, adolescence and the family;

6. Preparing and publishing studies and reports on research as to the nature and importance of problems affecting youth for presentation to the General Assembly of the OAS; \textit{and importantly}

7. Maintaining lines of coordination with the agencies of the United Nations and other public and private national and international organizations with interests similar to those of the Institute, and with all areas of the General Secretariat of the Organization.\textsuperscript{324}

Available reports do not demonstrate that the INN currently or ever has received a specific mandate to study or analyze the phenomenon of child labor. Nevertheless, the INN organized the Commission's recent Recommendation for Eradicating the Recruitment of Children and Their Participation in Armed Conflict, which is a positive step in the integration of anti-child labor policies consistent with Inter-American human rights philosophies.\textsuperscript{325}

VI. PROPOSALS FOR REGIONALIZING THE PLAN OF ATTACK

The Organization of American States may be the world's most progressive regional human rights organization, featuring legal, administrative and technical infrastructures uniquely designed for regionalizing human rights efforts. Inherently concerned with the welfare of its children, the OAS evinced

\textsuperscript{324} See id. at Chapter VII, The Office of the Inter-American Children's Institute.

\textsuperscript{325} See IACHR Child Soldiers, \textit{supra} note 290, at 3, n.1.
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sensitivity to children and their particular vulnerability, long before popular culture awakened to the concept of their rights. While the Organization consistently demonstrates a willingness to broadly defend children's rights, in reality the OAS has been roundly criticized for its lack of efforts in this area, particularly with respect to child labor. As one author notes, the policies of the OAS apparently reflect the general air of apathy for children's rights in its constituent countries; "[c]hildren's rights in this region of the world are not respected or promoted, and worst of all, they are habitually ignored.

Although Brazil may be similarly criticized, the country has developed a number of innovative programs, laws, policies and initiatives which can serve as a basic model from which to design the OAS child labor eradication strategy. These efforts are well designed under the guidance of the International Labor Organization, and have tremendous support worldwide. Further, they are evaluated for regional replication and adaptation. Despite the OAS' exceptional vantage to incorporate ILO/IPEC objectives on a regional front, to date, neither the ILO nor the OAS have forged a partnership to regionalize child labor efforts.


327. See Dulitzky & Tapia, supra note 268, at 284.

328. E-mail from Pedro Americo, ILO/IPEC Coordinator Brazil, to Charles Mantei (Apr. 12, 2001) (on file with author). "[The OAS and] IPEC/ILO Brazil had never undertaken any joint action together vis-à-vis child labour. To tell you the truth, I have never heard about OAS participation in such area." Id. See also E-mail from Yolanda Chave Fahrni, ILO/IPEC Geneva, to Charles Mantei (Apr. 11, 2001) (on file with author). "Their (sic) is no partnership with OAS and IPEC so fare (sic)." Id.
1. Petitions to the Commission

In light of Brazil's ratification of the ILO Convention on the Eradication of Worst Forms of Child Labor, and Article 29 of the American Declaration, petitions from Brazil involving child labor issues ought to receive detailed scrutiny for prosecution. The Commission should assign priority to these cases in light of a child's ironic situation of depending on others to enforce her rights that he or she likely cannot completely understand. Moreover, the Commission can bring more, including child rights cases before the Court to issue binding resolutions. Now that Brazil has accepted the contentious jurisdiction of the Court, the Commission should make every attempt to forward the cases pending before it involving Brazilian children,\textsuperscript{329} to the Court for prosecution.

Brazil's NGO's should consider preparing class actions for the Commission review concerning egregious forms of child labor documented in Brazil. Jennifer Bol, in her 1998 Case Study of Guatemala\textsuperscript{330} has detailed the process Brazilian NGO's may use to increase access to the Commission to protect Child labor Rights. Her study includes a rich assessment of benefits and limitations using the Inter-American system to advance child labor petitions.\textsuperscript{331} Similarly, Ariel E. Dulitzky and Lugueyl Cunillera Tapia from the Center for Justice and International Law (CEJIL) in Washington D.C., have formulated methods for designing petitions to the Commission for the protection of Children's Rights specifically for non-governmental agencies, which may serve as guidelines for preparing petitions in Brazil.\textsuperscript{332} Moreover, Casa Alianza Latin American recently petitioned the Commission's Special Rapporteur on the Rights of Children of the Americas to evaluate the plight of sexually abused children in Costa Rica, and is an example of formal communications between the Commission and legally recognized NGO's.\textsuperscript{333}

\textsuperscript{329} Namely, Edson Damiao Calixto (Case No. 11,285); Roselandio Borges (Case No. 11,290), and Aluisio Clvacanti Jr. & Claudio Aparecido de Moraes (Case No. 11,286).
\textsuperscript{330} See generally, Bol, supra note 59.
\textsuperscript{331} See generally, Bol, supra note 59.
\textsuperscript{332} See generally, Dulitzky & Tapia, supra note 268.
2. On-site Investigation and Reporting

Brazil may request on-site monitoring of child labor abuses in Brazil through the Commission. When the Commission conducts a country review in loco, it should provide a specific component on child labor particularly in light of the broad ratification of the ILO’s Convention on the Eradication of the Worst Forms of Child Labor, throughout the Americas. Until now, the Commission has relied on figures on the pervasiveness of child labor from the governments themselves, and therefore has not actually independently studied incidences of exploitative child labor through its own on-site inspection. In fact, the country studies pay meager attention to child rights issues, and have only recently incorporated segments dedicated to child labor (and only in the general context of children’s rights). Consistent with the Commission’s recent adoption of the Recommendation for Eradicating the Recruitment of Children and Their Participation in Armed Conflicts, on-site investigations must now report on the general incidence and progressive decline of children employed as soldiers in the Americas.

3. Special Rapporteur on the Rights of Children

The role of the special rapporteur must be expanded to consider the issue of child labor. The Commission’s broad mandate will allow him to look at this issue, particularly in light of the goals of the American Declaration, the Declaration on the Rights of the Child, and the ILO’s Minimum Age Convention and the Convention on the Eradication of the Worst Forms of Child Labor. Continued integration of the rapporteur’s efforts with the Inter-American Children’s Institute in Montevideo is vital. In his first report, the special rapporteur scarcely addressed the issue of child labor, though it is one of the most critical issues associated with children in the region.

4. The Inter-American Court of Human Rights

Brazil may request the Court’s advisory opinion on various issues confronting child labor including how one might reconcile its treaty obligations under the ILO Minimum Age Convention and the ILO Child Labor Convention with existing laws, social
realities, and MERCOSUL. Although judicial intervention will not cure the problem of child labor as Judge Thomas Buergenthal aptly noted:

"...like medical doctors, who also treat mainly symptoms, courts can do a great deal of good without being able to affect the underlying causes. For example, there is a great need, in our hemisphere to legitimize the human rights debate, to give the people of our region some tangible examples of international human rights justice and to demonstrate that it is possible to resolve many human rights issues without resort to violence."

Herein, the Court may provide insight and legitimacy to the regionalization of child labor policies in Brazil and in other countries who have adopted its compulsory jurisdiction. Further, the court's available remedies and ability to mobilize moral persuasion, are attractive and salutatory effects of bringing individual child labor claims before its jurisdiction.

5. The Inter-American Children's Institute

The INN's function and purpose demand the integration of international anti-child labor initiatives. The institute is specially programmed for regional initiatives involving child rights, and must modernize its agenda to include child labor. Its facilities and staff perform training, seminars, and research on children rights, and its own mandate requires it to adopt successful measures created in Member States for the purpose of advancing child rights. The INN is staffed to prepare studies and reports, and more importantly, is required to coordinate efforts with the United Nations and other international organizations with interests similar to its interests. The INN may adopt an array of proven successful anti-child labor components of the ILO/IPEC program such as:

1. Designing the OAS Partnership (or MOU) with the ILO to include various program components;

2. Coordinating a regional Global March campaign;

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334. Regional trade/custom union between Uruguay, Argentina, and Brazil.
336. Global March against Child Labor is actively supported by IPEC and involves a
3. Incorporating regional Statistical Information and Monitoring Program (SIMPOC) into its current child rights monitoring system;

4. Designing a regional child labor inspector's training and monitoring program;

5. A child labor data clearinghouse analyzing regional and sub-regional trends in child labor;

6. Hosting regional Non-governmental Organizations activities and conferences;

7. Publicizing successful child labor reform in the Americas;

8. Creating awareness and publicity campaigns condemning child labor;

9. Standardizing trade union codes of conduct for child labor;

10. Evaluating customs unions codes of conduct for child labor;

11. Replicating successful models in the region; and

12. Assessing the feasibility of regional minimum wage programs.

The Inter-American Children’s Rights Institutes holds the greatest promise of regionalizing child labor efforts in the Americas, yet may be the most underutilized of all the specialized institutions of the OAS. Considering its broad mandate, design, and function, the INN should begin expanding regional child labor standards and initiatives. When properly galvanized, this specialized agency, will advance the ILO/OAS child labor initiatives in the region, in unprecedented directions throughout the Americas. Moreover, the INN has the benefit of the Brazilian Model, designed for diverse ethnic, social, and demographic populations, with a decade of experience to share with the INN in program development.

VII. CONCLUSION

The wisdom of history predicts that eliminating child labor in Brazil will be a slow and uneven process, with poorer and
agricultural states lagging indefinitely. Opposition will be fierce for decades to come, and the laws will remain long inferior to the enormous social evolution that will finally assimilate effective national standards on child labor. In this respect, Brazil perhaps is fighting against time and history, attempting to control child labor within years; not decades, not centuries. Despite the renewed democratization and economic growth over time, Brazil has not transformed itself into an advanced, industrialized nation. It continues this struggle though, in reality it remains incapable of universalizing political ideals directly. Still, it has developed one of the world's most dynamic child labor reforms featuring unprecedented programs and community action unavailable to countries who industrialized a century ago. So, perhaps Brazil's time is coming soon. By simple destiny, the Organization of American States will play a lead role in Brazil's effort one way, or another. The progressive character of the OAS promises to provide Brazil with the assistance it needs to change its fate, ultimately. With the vigorous assistance of international and regional organizations and persistence in changing social norms and industry standards, perhaps there is hope that the one day soon, the working children of Brazil, and those everywhere in the world, will find a way to be only children.