

Constructing and implementing new policies for children and adolescents in the “situation of the streets” in Rio de Janeiro: A summary of findings.

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Constructing and implementing new policies for children and adolescents in the “situation of the streets” in Rio de Janeiro: A summary of findings.¹

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A project of the International Center for the Study of Childhood (CIESPI) at the Pontifical Catholic University of Rio de Janeiro (PUC-Rio)

Introduction

This bulletin is one of several publications from a project titled “The process of constructing and implementing public policies for children and adolescents in the situation of the streets” undertaken by the International Center for the Study of Childhood.¹ The purpose of the study is to analyze the process by which policies on children and adolescents (hereafter, children) are established and implemented by municipal Councils for the Rights of Children and Adolescents. Such councils and their counterparts at the state and the national levels were established by federal law in 1990 and have the responsibility of providing citizen input into the process of guaranteeing and implementing the rights of children. This bulletin is a preliminary summary of the opportunities and challenges encountered in Councils’ work in developing policies on street children in Rio de Janeiro and six other cities.²

The 1990 Brazilian Statute on the Rights of Children and Adolescents³ marked a major step forward in the establishment of legal rights for children. The law came two years after the establishment of the 1988 Federal Constitution which in turn followed the end of the Brazilian military dictatorship of 1964-1985. Article 227 of the Constitution contains a broad statement of rights for all Brazilian children:

It is the duty of the family, society and the state to assure with absolute priority the rights of children and adolescents to life, health, food, education, leisure, occupational training,

¹ This project has been partly funded by a grant from the Oak Foundation, Geneva, Switzerland. It was also partly funded by the National Council for the Rights of Children and Adolescents (CONANDA/SEDH) Brasília, Brazil, in the period of January, 2009 to July, 2010.

² A fuller description of the process of developing a policy on street children in Rio de Janeiro can be found in Marcelo Princeswal and Paula Caldeira, *Os Processos de Construção e Implementação de Políticas Públicas para Crianças e Adolescentes em Situação de Rua*, Rio de Janeiro, the International Center for the Study of Childhood at the Pontifical Catholic University of Rio de Janeiro, 2010. This and other project documents can be found on the CIESPI web site, www.ciespi.org.br

³ Estatuto da Criança e do Adolescente, Lei n.º 8.069.

culture, dignity, respect, freedom, and family and community life, and in addition to protect them from all forms of negligence, discrimination, exploitation, violence, cruelty and oppression.

The law, based on these extensive constitutional rights, also included a key mechanism for implementing children's rights namely the creation of Children's Rights Councils. Article 88 of the law created the Councils with the responsibilities to deliberate on and oversee the actions of all levels of government in respect to children. The elected Councils must have equal representation of public officials and members of civil society. This oversight authority extends to the actions of nonprofit organizations as well as public bodies.

While the legal guarantees for children in Brazilian law are extensive and while the Councils are an imaginative part of Brazil's post dictatorship goal to include civil society as an active participant in government, the actual implementation of rights and the functioning of the Councils fall far short of what is envisioned in the legal framework. The bulletin summarizes the reasons for these shortfalls and the opportunities the Councils provide as we observed the work of the municipal Council in Rio de Janeiro and other cities.

The study from which this bulletin is derived began in June 2008 when CIESPI staff was invited to act as consultants to the Working Group of the Rio Council charged with developing a draft policy for children in the situation of the streets (hereafter street children).⁴ We use the term children in the situation of the streets to indicate the reality that the majority of children who spend their days on the streets hustling for loose change and hanging around do not spend their nights on the streets but sleep in a variety of places that reflect fragile connections with family, friends, and shelters. On June 22, 2009 the full Council approved the policy developed by the Working Group, the first time in the country that a policy on street children had been developed and adopted through the mechanism of a Council's deliberations. In May 2010, the Rio Council established a commission to develop a plan to implement and monitor the implementation of the policy.

As part of the project, CIESPI also monitored the work of six other municipal Councils and met with representatives of civil society who were interested in street children in those six cities, assisting their efforts where requested. These cities were Manaus (Amazonas), Vitória (Espírito Santo), Salvador (Bahia) São Luis (Maranhão) and Olinda (Pernambuco). CIESPI also worked with similar groups in Goiânia (Goiás), in the state of Pernambuco, with Porto Alegre (Rio Grande do Sul) and with the seven municipalities that make up the Region of the Large ABC (Região do Grande ABC) in São Paulo.

These places were chosen to include at least one state in each of the macro-regions of Brazil. In each of the cities CIESPI had existing relationships with local researchers and children's professionals. This latter criterion was critical to aiding our understanding of often complex local situations. The first formal contact with the states for this project was a seminar in Rio de Janeiro in April 2009 which included several key actors from each city. During this seminar the representatives of each city described the situation of street children and how their Councils were involved in

⁴ This meant that the CIESPI researchers were very much participant observers. Their consultant roles included providing the most recent data on street children and children in vulnerable situations in urban Brazil and assisting the deliberations of the Council by e.g. taking and distributing notes on the Working Group and the Council's deliberations. They particularly assisted the civil society representatives on the Council including the representatives of the Rio Children's Network, *Rede Rio Criança*.

tackling the problem. During the conference, CIESPI offered to assist the local actors to help their efforts to develop policies for street children. While most of the cities indicated their interest in such a partnership, partnerships were, in fact, only established with some of the cities. However, after two years CIESPI staff had completed a large number of meetings and phone and electronic contacts with the cities outside Rio including at least one in person meeting in each city with some mixture of nonprofit actors, public officials, Council members, specialists and social workers who worked with or in the Councils and, or with, the children themselves. This purposive national sample of cities allows us to see the variety of activities Councils have or intend to take on public policies to assist street children. We should note that the Rio Council has been most active in promoting a policy for street children. Some of the other Councils were at the very beginning of their work on developing a policy, and some have preferred to develop general policies for children which, if implemented, would also help street children. The information in this bulletin comes from the project research in general and especially from a survey conducted by CIESPI of involved people in each of the cities where we worked.

Preliminary findings

Opportunities:

1. The Rio Council's success in producing a policy

Despite the lack of a history of developing and approving policies on children, the Rio Council through a process of lengthy deliberations produced a detailed policy on improving the lives of street children. While the policy opens with a description of the broad legal context of children's rights and a summary of data on street children, it also contains concrete and, therefore, actionable, instructions (fifty-four separate clauses) for eight municipal departments and seven instructions for the organizations of civil society. For example, the instructions to the municipal Secretariat of Social Assistance include guaranteeing the inclusion of street children and their families in the family income program (*Bolsa Família*) and other social assistance programs, guaranteeing the children's participation in programs to end child labor, including the children and their families in work and income generation preparation programs, and including the children and their families in the municipality's housing programs. The Rio policy constitutes the first ever detailed local policy for street children that was initially deliberated in and approved by a municipal Council and hence serves as a base-line and model for future policies both in terms of substance and process.

2. The Rio Council sets up an implementation oversight committee and plans an implementation agenda

The Rio Council, on passage of the policy, saw the need to establish an implementation committee to oversee the implementation of the policy. The implementation committee took some time to plan an implementation agenda, but after several months prepared for the Council a strategic plan for implementation. The Council formally adopted the plan which documented the obstacles to implementation, organizations that would help the Council implement the plan and a series of actions with timelines and people responsible for each action. This implementation plan represents a major advance in a country where the delineation of rights for children is much more detailed than the delineation of strategies to implement those rights.

3. The use of data on vulnerable children and street children

The work of the Rio Council was based on a survey of current knowledge about street children and children living in vulnerable conditions specifically constructed for the debate in the Council. The research summary was constructed by CIESPI⁵. While research on street children is difficult to conduct, sparse, and suffers from methodological shortcomings, the Council's deliberations created a space for discussing and examining the latest research on street children and on children in vulnerable conditions. The various parties involved with the issue of street children in Rio and other states appreciated the opportunity for discussion provided by these newly summarized data and the data were discussed in a number of forums. Some of the data were included in the preamble to the Rio policy.

Several other states on receiving the research summary from CIESPI asked staff for their assistance in collecting information about street children in their jurisdiction. The Council's use of material and debate about children in vulnerable contexts, a much broader category than street children, was an important recognition that children reach the streets because those vulnerable contexts erode family and community ties and that attention should be paid to such children from the earliest age while they are still at home. In addition to these data, the civil society members of the Council and other advocates and professionals who participated in the Council's discussions brought to those debates an extensive day to day knowledge of the lives of street children.

4. Another Council completes a draft policy

While Councils in the other states displayed wide differences in their readiness to develop policies on street children, one Council (São Luís in Maranhão) has developed a draft policy in close collaboration with CIESPI staff. The São Luís group benefited from knowledge of the Rio process and the substance of the Rio policy. This draft policy has now been sent to the full Council for discussion. The São Luís draft policy, like the Rio policy, contains concrete and specific actions to be taken by a number of the municipal departments.

Just as the Rio policy was promoted by the Rio Children's Network, *Rede Rio Criança*, the policy in São Luís was promoted by a similar network, the Friend of the Child Network, *Rede Amiga da Criança*. (Work on street children in that city has long been promoted by the foundation Terre des Hommes.)⁶ This policy was approved in Plenary Council on February 23, 2011, and was scheduled for public release on April 20 of the same year.

⁵ Irene Rizzini, Paula Caldeira, Rosa Ribeiro, and Luiz Marcelo Carvano, *Crianças e Adolescentes com Direitos Violados. Situação de Rua e Indicadores de Vulnerabilidade no Brasil Urbano*, Rio de Janeiro: CIESPI in association with the Pontifical Catholic University of Rio de Janeiro (PUC-Rio), 2010.

⁶ Terre des Hommes also supported a new level of interest in street children in Rio de Janeiro starting in 2000 including support for the creation of the network, Rede Rio Criança and support for CIESPI research that resulted in the publication of the book *Vida nas Ruas. Crianças e Adolescentes nas Ruas: Trajetórias Inevitáveis?* (Life on the Streets), Irene Rizzini et al., São Paulo: Loyola, 2003.

5. The Councils' work on policies for street children represents a dramatic change from seeing street children as threats to public order

The approach of constructing concrete policies to improve the lives of street children stands in an important contrast to the far too common attitude of seeing street children simply as public menaces that simply need to be removed from the streets and controlled. While this latter view is still prevalent in some parts of Brazilian society, there is now at least an official, alternative view of street children.

Challenges:

1. The lack of sustained debate and action on street children

The presence of children with fragile connections to family and community who spend their days on the streets exposed to many dangers is a constant fact of urban life in Brazil. On most urban intersections such children hustle by selling small items or by doing acrobatics to attract the attention of motorists stopped for a moment by a traffic light. They are, in short, ubiquitous and very visible. Despite the intensity of the issue, in the twenty years of the existence of Councils very few have succeeded in addressing street children as part of their responsibilities. One reason for this lack of attention was the lack of resources to understand the problem and to draft possible solutions. In several of the cities, CIESPI's staff offer of research help and technical assistance was characterized as a welcome gift. One Councilor described CIESPI's help as "everything the Council needed but could not achieve".

2. The weight of responsibilities of Councilors, who also have regular jobs

Children's Rights Councils are responsible for all matters referring to the rights of children and adolescents. It is not surprising that some had priorities other than street children. However, only one of the Councils we contacted showed no interest in developing a policy on street children. In this city, the Council's prior activity has resulted in a new municipal program for street children and so the Council saw no great need to develop a policy.

Noting the difficulty Councils experienced in formulating and monitoring policy, we asked Councilors why they thought these central tasks were difficult to accomplish. A frequent response was the overload of a Councilor's responsibilities. These included the responsibility of registering all groups that worked with children in their jurisdiction including in some cases checking those groups documentation, and supervising elections for the Guardianship Council - a separate but related Council that has authority over children at risk.

Another challenge for both the public sector and civil society sector Councilors was the fact that they still had full responsibilities in their regular jobs and could only dedicate a few hours a week to the work of the Councils.

3. Challenges posed by public sector Councilors

A specific problem affecting public sector representatives was that sometimes many of them were from the same municipal department with the result that other key departments were left unrepresented. Moreover, the public sector representatives were often junior level employees not

managers and these members lacked the autonomy to speak and act in the Council on behalf of their departments. This problem was magnified by the fact that the public sector representatives were frequently rotated making coherent discussion and decision making more difficult. In some Councils the public sector Councilors were much less likely to attend the meetings than the civil society Councilors.

4. Lack of experience in the role of policy making

Many Councilors lack experience of how to deliberate about and develop public policies. On some occasions CIESPI staff were asked to draft a policy for a Council and had to remind Councilors that policy development was the Council's responsibility and indeed, by law, a collective responsibility of the various interests represented in the Council. In addition to the lack of knowledge about developing public policies, many Councilors also lacked experience of acting and speaking in a public, decision making body. In one city, a councilor asked CIESPI staff when the staff would provide a training because he had no experience of working in a public body. In another Council, the executive secretary attempted to prevent several newly elected Councilors giving CIESPI staff interviews, a clear overreach of his powers and a sign of his lack of knowledge that his role was to assist the deliberations of the Council.

In the light of these difficulties, several Councilors came to doubt whether the Councils had the competence to deliberate on and develop public policies. These internal doubts raise the question of the relationship between the Councils' responsibilities and Councilors skills and experience.

5. The Fund for Children and Weak Political Interest in the broad responsibilities of the Councils

Article 88, paragraph 3 of the Statute on the Child and the Adolescent defines the role of Funds for the Rights of Children and Adolescents (FDCA) and their links to the Councils. The Article further provides that the Councils have the responsibilities to administer the funds, establish criteria and plans for their use.⁷ We discovered that the question of how these funds should be used was one of the most debated topics in the Councils. A number of our respondents said that many government and non-government groups only participated in the Council debates when the agenda included the allocation of these funds. In consequence, these respondents said, this priority led to a disregard for policy issues thus turning the Councils into bodies narrowly focused on discussing and disbursing funds. On the other hand, the existence of these Funds gives Councils, at least in theory, a powerful tool to promote the implementation of their policies.

6. Implementation and the division of interests and power between the Councils and the Municipalities

We have already noted the comparative lack of a tradition in Brazil of organizing for implementing the rights of children. The civil society members of the Rio Council, for example, feared that the city agreed to the policy very reluctantly and showed little initial interest in implementing it, although the city health department has started to implement one of the provisions of the policy. This raises the question of the comparative powers of Councils and municipalities in regards to children's

⁷ § 2º do art. 260 da Lei nº 8.069, de 1990.

policies. There are precedents in the Supreme Court saying that municipalities are obliged to follow the resolutions of the Councils. In case a municipality failed to act, theoretically there could be a class action law suit. But there are also theoretical arguments questioning this possibility on the grounds that such actions would give the Councils more power than the elected legislative bodies. In practice, said one jurist, Councils act in gaps in state and municipal law.

We should note that a respondent in one city said that other types of federally mandated oversight Councils had some success in implementing Council actions because of the particular context in which those Councils worked. The Council on Social Assistance in this city was said to work because all the social assistance budget passed through the Council. The Health Council was said to work because the doctors' union was behind its actions. The same respondent said that "today you can do nothing about trees, nothing about rivers but the [Environmental] Council goes there and is on top of it." A Council's power appears, therefore, to be relative to its subject matter and the forces aligned with it.

Some conclusions

Children and adolescents in Brazil enjoy the theoretical protection of some of the most extensive constitutional and legal rights of any country in the world. These rights are of comparatively recent origin and the implementation of these rights is weak particularly for vulnerable children. Street children in particular are still often regarded in practice as threats to public order rather than the subject of rights. The Brazilian Statute on the Child and the Adolescent established a particular mechanism for promoting the implementation of rights, namely Children's Rights Councils. Our study shows that these Councils can, in the right circumstances, develop detailed policies on street children, a useful, though not a sufficient step for the implementation of rights.

A number of strategies might assist municipal Children's Rights Councils to fulfill their responsibilities more effectively. These include more practical assistance via training and support services;⁸ the development of model policies which Councils could adapt to the particular circumstances of children in their jurisdiction; the development of effective sanctions for Councils that do not fulfill their responsibilities and municipalities that do not respect the policies that are developed by the Councils; the development of a greater public awareness of the statutory responsibilities of Councils and of the important role they could play in implementing existing rights; and the conscious organizing of broader political support for Council actions.

For more information about this Bulletin and about the project please contact the International Center for Research and Policy on Childhood (CIESPI) at ciespi@ciespi.org.br or visit our website at www.ciespi.org.br.

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⁸ A process which Councils might adopt for developing a policy is described in Princeswal and Caldeira, 2010, p.33.