

Child rights networks in the literature from 2020 to 2023

Abstract

The Convention on the Rights of Children, instrumented in laws, codes and articles, suggest the protection of minors in Latin America, but without guaranteeing a favorable environment for their development. The State is only obliged to be rector of rights, attorney for the child, family benefactor and guarantor of the environment, but it does not interfere in the civility and politicization of the minor for its appropriation and emancipation from the group, community or locality to which it belongs. In this sense, the migrant minor only aspires to a family reunion and to submit to the limits that the law imposes on him. The objective of this work was to discuss the scope and limits of Latin American political constitutions, civil codes and punitive laws in order to demonstrate a new model focused on the autonomy and self-management of the minor. A review of the legal instruments of six Latin American countries was carried out: Argentina, Chile, Ecuador, Mexico, Paraguay and Peru, considering the differences and similarities in terms of child and adolescent protection. The discussion shows the urgency of reorienting the laws and articles towards the appropriation and emancipation of the minor in a vulnerable situation. Based on the systemic technique of Social Work, an intervention model is proposed for the promotion of the liberties of the minor.

Keywords: civil code, political constitution, child protection, social work, family unit

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Introduction

The genealogy of the Convention on the Rights of the Child is located in the Geneva Declaration of 1924 and the Declaration of the Rights of the Child of 1959.¹ The *litigation* of the Convention on the Rights of the Child indicates that it is about legal and international guarantees against actions and omissions in order to protect minors and preserve their freedoms and dignity.

The Convention on the Rights of Children relating to the political sphere includes guarantees of participation and association.² In the case of Latin American countries, laws are structured according to childhood and adolescence. The spirit of these laws assumes that as the rights of fewer are guaranteed, they require greater participation and association (Table 1).

Table 1 Legal instruments of political rights

Country	Law	Freedoms	Article	Reference
Argentina	Law 26774 of Argentine Citizenship; Law 260661 Comprehensive Law for the Protection of the Rights of Children and Adolescents	Ideas and Beliefs, Opinion and Being Heard, Association	19, 23, 24	Constitution of Argentina. ³ ; National Law 26,061 on Comprehensive Protection of the Rights of Boys, Girls and Adolescents. ⁴ ; Ministry of Social Development of Argentina. ⁵ ; Law for the Comprehensive Protection of the Rights of Girls, Boys and Adolescents. Law 26061 ⁴ ; Ministry of Social Development of Argentina. ⁵ ; National Secretariat for Children, Adolescents and Family. ⁶
Chile	Minors; National Policy and Comprehensive Action Plan in Favor of Children and Adolescents, Family Courts, Protection of the Rights of Children and Adolescents; Responsibility, Rights and Duties	Control of deviant behavior due to abandonment or delinquency		UNICEF ⁷⁻¹¹
Ecuador	Political constitution; Child and adolescent code,	Expression, Query, Thought, Awareness, Religion, Meeting	59, 60, 61, 63	National Assembly of Ecuador ¹² ; Code of Childhood and Adolescence of Ecuador. ¹³ ; Advisory Council for Boys, Girls and Adolescents. ¹⁴ ; Constitution of Ecuador. ^{15,16} ; Observatory for Children and Adolescents. ¹⁷
Mexico	Political Constitution, Civil Code, The General Law on the Rights of Girls, Boys and Adolescents	Association, Religion	3, 27, 123	Political Constitution of the United Mexican States (2005)
Paraguay	Child and Adolescent Code	Petition	26	Paraguayan Constitution. ^{18,19}
Peru	Child and Adolescent Code	Opinion, Expression, Thought, Conscience, Religion, Association	9, 10, 11, 12	Constitution of Peru. ²⁰ ; CODEHICA ²¹ , Code of Children and Adolescents of Peru. Rights and Freedoms ²² ; Coordinator of Foreign Entities of International Cooperation of Peru. ²³ ; National Commission for the Rights of Girls, Boys and Adolescents. ²⁴

Source: Prepared from the consulted bibliography

However, the constitutions and laws had focused their attention on laws that protect adults without considering children and adolescents as subjects of rights and freedoms.²⁵ It was not until 1989 when the first act was signed for its entry into force the following year once the signatory countries accepted the proposal.

In addition, the Children’s Rights Conventions were created in a context in which migratory flows were not considered a problem for the receiving country.²⁶ In the decade where children’s rights are recognized, anti-immigrant initiatives are proposed in order to contain families that tried to reunite with their relatives in the receiving country. In this way, the rights and freedoms of children were violated asymmetrically according to the sending and receiving countries.

Table 2 History of social work

Context	Dimension	Institution	Influence	Level	Authors
Feudalism	Charity	Church	Theology	Collective	Bartolome de las Casas (1475), Juan Vives (1492), Vincent de Paul (1576)
Industrial Revolution	Assistentialism	Charitable Organizations	Sociology	Individual	Mary Richmond (1870)
First World War	Social service	Technical Schools of Social Work	Psychology	Inter Single	Virginia Robinson (1920)
WWII	Social services	Social Welfare Institutions	Social psychology	Group	Gordon Hamilton (1940)
Latin American Revolutions	Scientific Social Work	Non-governmental organizations	Liberation Theory and Reconceptualization	Intergroup	Hermann Kruse (1976)
Fall of the Berlin Wall, Attack on the Twin Towers	Postmodern Social Work	Civil Society Organizations and Social Responsibility	Systems Theory	community	Ricardo Hill (1986), María José Aguilar Idañez (1989), Ezequiel Ander Egg (1991; 1993; 1994; 2001; 2002; 2011)

Source: Prepared from the review of the literature

State protection of minors and family unit

Childhood, understood as every human being under 18 years of age, except in countries that consider the age of majority according to local uses and customs, supposes basic rights such as: Non-discrimination (Art. 2), superior interest (Art. 3), survival and development (Art. 6) and evolution according to age (Art. 12). Each article guarantees freedom of access to services for minimum and maximum provisions in protection and civil participation as a policy.²⁷

In order to define the discussion around the right to family unity, Latin American laws include articles that concern an environment of protection and development (Art. 9, 10, 11 and 16). In this sense, the governing State and guarantor of rights has the obligation and responsibility to contact the child with his or her family of origin.²⁸

However, the responsibility of the State in the sending country is not limited to the reunion of the family separated by the anti-immigrant law of the receiving country.²⁹ The expulsion of a family member and family reunion in another country supposes a violation of the law for the protection of minors.³⁰

The right to quality of life (Art. 27). Suppose a family environment of physical, social, mental, spiritual and moral development. Maintenance and job opportunities (Art. 18 and 26) are also the responsibility of the State.

If derived from the rupture, journey, stay and return of the minor with respect to the public services of the expelling country as well as the receiving country, the health is threatened, then both States have the co-responsibility of providing health care (Art. 24). In a

The objective of this paper is to compare the Convention on the Rights of Children regarding Family Unity in Latin American countries in order to discuss the impact of anti-immigrant policies on the right and freedom of association.

A review of the laws in the selected countries was carried out. Based on the scientific technique of Social Work systems (Table 2), the laws were analyzed and their scope and limits were interpreted. In addition, a systemic model was designed for the care of children whose rights to association were violated.

comprehensive preventive sense, the State must promote a life free of violence, with autonomy for the parties involved and social integration for juvenile offenders (Art. 23).

Regarding education, basic instruction (Art. 28) is an obligation of the sending and receiving countries.³¹ Even basic education must promote values and norms for equity (Art. 29). In a preventive sense, education is a complement to the right to culture and art (Art. 31) as part of an integral development ecosystem.³²

The States that do not guarantee these minimum freedoms, confront dysfunctional families with violence and therefore the minor offender emerges (Art. 19 and 34). The family that mistreats, abuses or is negligent to the development of the child is a responsibility of the State due to the prevention of human trafficking.³³ Sexual exploitation supposes kidnapping, trafficking, addiction, pornography and prostitution limited by the law and protection of minors (Art. 32, 33, 34 and 35).

Despite the fact that the protection of the minor is extensive to their family and social environment in order to prevent the commission of a crime or infraction, the areas of opportunity of the laws are found in the judicialization (Art. 40). The rulings of the court must consider the age of majority and the prosecution litigated in accordance with the prohibition of capital punishment, life imprisonment, extensive pretrial detention, as well as the prevalence of refuge, asylum, rehabilitation and social reintegration (Art. 22, 37 and 39).

The social reinsertion of the minor offender culminates a series of political, social and civil rights such as identity, nationality, family

privacy, expression, thought, conscience, culture and religion (Art. 7, 8, 12, 13, 14 and 16). Therefore, the right to information and association are fundamental in the protection of migrant minors (Art. 15 and 17).

Latin American laws concerning the protection of minors implement the family unit as the guiding axis of social, community, group and individual well-being.³⁴ In the case of migratory flows, the protection of minors is due to their socioeconomic condition.³⁵ In other words, if the sending or receiving State does not guarantee the conditions for the integral development of the family, then the impact on children and adolescents will be guided by punitive laws that limit the penalties, although once the age of majority is reached, minors offenders are subjected to the full weight of the law and order of the receiving country.

It is possible to notice that the Convention on the Rights of the Latin American minor does not contemplate emancipation before a group considered to be at high risk.³⁶ In this sense, Latin American laws do not discuss the relevance of the emancipation of the minor in the face of a dysfunctional family, intra-group violence or marital dispute.³⁷ Even the liberties and guarantees of protection of the minor seem to focus their attention on the prevention of crime or violence, the limits to the punishment of the offending minor, but without considering it as a subject of rights oriented towards its autonomy and self-control.

From Social Work the emancipation of the minor is assumed as a process of sense of community and empowerment. This issue prevents risk and crime scenarios through protection programs for children and adolescents in vulnerable situations.

Method

A documentary, cross-sectional and exploratory study was carried out with a non-probabilistic selection of sources indexed to national repositories: Clase, Conacyt, Latindex and Redalyc, considering the period from 2020 to 2023, as well as the search by keywords.

The Delphi inventory was used, which includes questions related to the relevance of the findings reported in the literature on safety at work. Expert judges on the subject were selected based on their h-index of citations in academic google. The criteria of the judges allowed the evaluation of the findings sought in the literature.

The judges were contacted through their institutional mail. Respondents were informed about the project and its managers. The confidentiality and anonymity of their answers was guaranteed in writing. The protocols for human studies recommended by the ethics committee were followed. The Helsinki protocol was used to carry out the investigation. The study followed the guidelines of the American Psychological Association.

The judges coded their answers using a Likert scale ranging from 0 = "not at all agree" to 5 = "strongly agree". The data was captured in excel and processed in JASP version 15. Non-parametric statistical coefficients were used. Centrality and clustering were estimated, as well as the relationship network, considering a learning of the biosafety protocols reported in the literature.

Results

The slope of the simulated and observed data suggests a fit. It means then that the dimensions of biosafety against COVID-19 emerge from the study context. In this sense, the network of meanings is oriented towards dimensions of study (Figure 1).

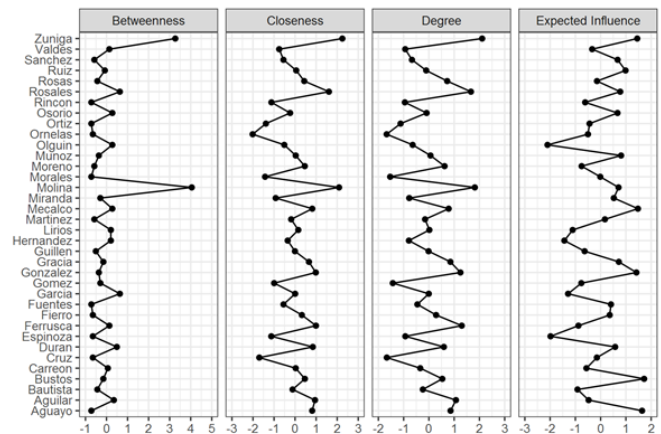


Figure 1 Centrality of child rights in the COVID-19 era. **Source:** Elaborated with data study

Figure 2 shows the values that explain the structure of biosafety in the selected literature from 2020 to 2023. The results show a diversification resulting from the containment and mitigation policies of the pandemic in the literature published from 2020 to 2023, considering the criterion of expert judges on the subject. The resulting structure suggests that the three components of the security model carry a diversity of meanings.

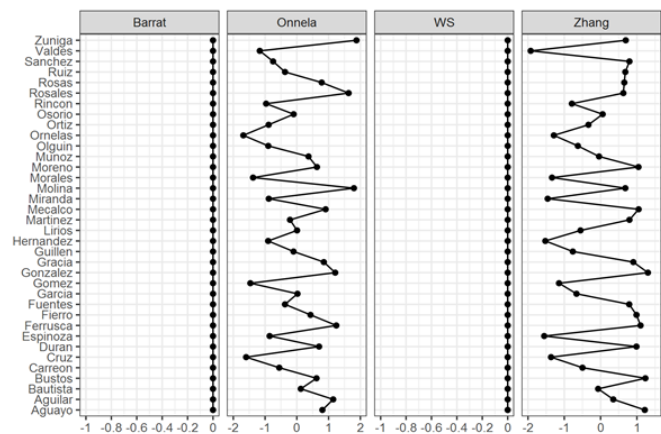


Figure 2 Clustering of child rights in the COVID-19 era. **Source:** Elaborated with data study

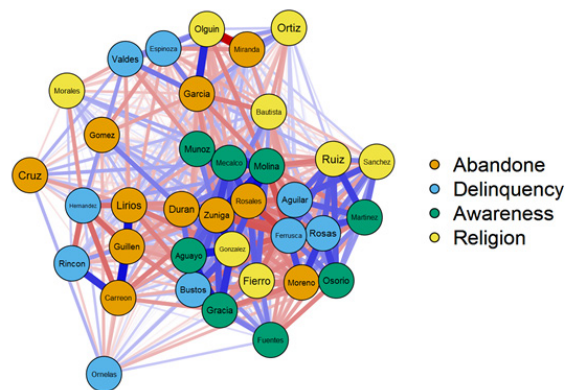


Figure 3 Networks of child rights in the COVID-19 era. **Source:** Elaborated with data study

Figure 3 shows the values of the structure. The edges and nodes are circumscribed, due to their centrality, in an institutional dimension. The evaluations of the judges according to the record of the bibliographic review show that the grouping in the short, medium or long term is in the logic of centrality and periphery. Governance is a structure of relationships between nodes and edges, being more corporate in its edges than in its centrality, since it is in this area where discrepancies are possible in the face of a risk event such as the pandemic. It is true that governance is institutionalized in its administration and bureaucracy, but in the face of an uncertain event it is more flexible and contradictory. In other words, governance is in the process of being reconfigured as COVID-19 has impacted it at its core and strengthened it at its periphery.

Discussion

The discussion around the emancipation of the minor has been approached from the social work of empowerment. The crossroads of Social Work deals with the emancipation or appropriation of autonomy related to self-care and risk prevention. As a migrant, the minor must not only be protected by law, but must also consolidate a civic and political education that guarantees full development of their freedoms and opportunities. Such a condition is only possible through the appropriation of the *res* and political *ethos*. From a Top Down paradigm, Latin American laws suggest a governing State that orders individuals in accordance with security and pacification laws. Social Work with a Bottom Up perspective (from the bottom up) suggests the appropriation of spaces, identities, discourses and *habitus* according to freedom of choice and property.

Consequently, from social work the minor in a vulnerable situation is part of an ecosystem, chain or spiral of liberties oriented to the appropriation of their political, social and civil guarantees. In this sense, the systemic model of intervention will deal with the appropriation and emancipation of human rights. In the case of the migrant minor, the guarantees are oriented towards prevention rather than the protection of their family unit. Immediately afterwards, the State must procure the liberties of the parties involved in the development of the child and adolescent.^{38,39}

Conclusion

The Latin American constitutions focus their attention on the protection of minors through laws and articles that limit the punitive action of the parties involved. In this sense, the protection instruments discharge the entrustment of protection of the minor to the family, but once he reaches the age of majority, he is subjected to the weight of the law. From Social Work, the minor is assumed as a subject of rights, but also as a co-responsible in the appropriation of resources for their development and in the management of their well-being through autonomy and emancipation. The intervention proposal follows the guidelines of policies such as the Sustainable Development Goals in which the provision of resources is not sufficient. The sustainability of an environment is essential for the full development of the child. The family unit is more than a guarantee of protection. The minor transits, with the appropriation of his freedoms, towards the self-management of his own development, his family, community and environment.

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Conflicts of interest

The authors declares that there is no conflict of interest.

References

1. Barth RP. Emancipation services for adolescents in foster care. *Social Work*. 1986;31(3):165–171.
2. Batsche C, Hart S, Ort R, et al. Post-secondary transitions of youth emancipated from foster care. *Child & Family Social Work*. 2014;19(2):174–184.
3. *Constitution of Argentina. Declarations rights and Guarantees*. 1994.
4. Law for Comprehensive Protection of the Rights of Girls, Boys and Adolescents. Law 26061. Article 23. Right of Free Association. 2005.
5. Ministry of Social Development of Argentina. The boys have the floor. 2016.
6. National secretariat for children, adolescents and family. Third report of the convention on the rights of the child. Ministry of Social Development. Argentina republic. 2008.
7. UNICEF. *The participation of children and adolescents in the context of the Convention on the Rights of the Child: Visions and Perspectives. Paper presented in the Seminar Proceedings, December, Bogotá*. 1998.
8. UNICEF. *Children as active citizens. Commitments and obligations for children's civil rights and civic engagement in East Asia and the Pacific a policy and program guide*. 2011.
9. UNICEF. *Survey on the living conditions of children and adolescents. Argentina*. 2013.
10. UNICEF. *The right to vote for adolescents aged 16 and 17. Argentina*. 2016.
11. UNICEF. *The Convention on the Rights of the Child*. 2016.
12. National Assembly of Ecuador. Political constitution of Ecuador. 2016.
13. Code of Childhood and adolescence of Ecuador. *Art 4. Definition of child or adolescent*. 2016.
14. Advisory council for boys, girls and adolescents. Internal regulations of the advisory council for children and adolescents of Ecuador. 2011.
15. *Constitution of Ecuador. Third Chapter. Rights of people and priority attention groups. Article 35*. 2015.
16. *Constitution of Ecuador. Third Chapter. Participation rights. Article 62*. 2015.
17. Observatory for Children and Adolescents. The boys and girls of Ecuador at the beginning of the 21st century. Quito. Ecuador. 2010.
18. *Constitution of Paraguay. Of rights, duties and Guarantees*. 2011.
19. *Constitution of Paraguay. Article 54 – Child protection*. 2015.
20. *Constitution of Peru. Social and economic rights. Art. 4 Family Protection*. 2009.
21. CODEHICA. *Boys and girls in the participatory budget*. Ica Human Rights Commission. Perú. 2018.
22. *Code of Children and Adolescents of Peru. Rights and Freedoms*. Ministry of women. 2016.
23. Coordinator of Foreign Entities of International Cooperation of Peru. *Conversation: Participation of children and adolescents in municipal policies for children*. 2014.
24. National commission for the rights of girls, boys and adolescents. *CONADENNA: Mobilization for the right to participation of children and adolescents in Peru*. 2016.

25. Busse S. A German perspective on supervision: Supervision between maintenance of, emancipation from, or abnegation of the origins of social work?. *The Routledge International Handbook of Social Work Supervision*. Routledge. 2021:13–28.
26. Cordero AE, Negroni LK. Leadership development for Latino community emancipation: An integrative approach in social work education. *Advances in Social Work*. 2013;14(1):102–124.
27. D’cruz H, Gillingham P, Melendez S. Reflexivity, its meanings and relevance for social work: A critical review of the literature. *The British Journal of Social Work*. 2007;37(1):73–90.
28. Iglehart AP, Becerra RM. Hispanic and African American youth: Life after foster care emancipation. *Journal of Ethnic and Cultural Diversity in Social Work*. 2002;11(1–2):79–107.
29. Inglis T. Empowerment and emancipation. *Adult education quarterly*. 1997;48(1):3–17.
30. Fook J, Pease B. *Transforming social work practice: Postmodern critical perspectives*. Routledge. 2016.
31. Mulkerns H, Owen C. Identity development in emancipated young adults following foster care. *Smith College Studies in Social Work*. 2008;78(4):427–449.
32. Lammert M, Timberlake EM. Termination of foster care for the older adolescent: Issues of emancipation and individuation. *Child and Adolescent Social Work Journal*. 1986;3:26–37.
33. Timberlake EM, Pasztor E, Sheagren J, et al. Adolescent emancipation from foster care. *Child and Adolescent Social Work Journal*. 1987;4:116–129.
34. Thompson N. Social movements, social justice and social work. *British journal of social work*. 2002;32(6):711–722.
35. Waldinger G, Furman WM. Two models of preparing foster youths for emancipation. *Children and Youth Services Review*. 1997;16(3–4):201–212.
36. Waaldijk B. Social Work Between Oppression and Emancipation. Histories of Discomfort and Inspiration in Europe. *Social Work & Society*. 2011;9(2).
37. Wilson A, Beresford P. ‘Anti-oppressive practice’: emancipation or appropriation?. *British Journal of Social Work*. 2000;30(5):553–573.
38. Advisory council for boys, girls and adolescents. Council resolutions. Ecuador. 2016.
39. *Citizenship Law 26,774. I vote from the age of 16. Argentina*. 2012.