

***INTERNATIONAL ASSOCIATION OF YOUTH AND FAMILY MAGISTRATES***  
***( IAYFM)***

On June 6th and 7th 2019, the 2021 World Latin American Pre- Congress was held in the City of Buenos Aires, in The Argentine Republic, at the School of Law of the University of Buenos Aires, “*Towards a friendly justice for children and adolescents in Latin America*”.

**Organized by the International Association of Youth and Family Judges and Magistrates (IAYFM), Terre des Hommes, Defence for Children International and Penal Reform International**, it was carried out during two full working days.

By emphasizing the construction of a friendlier Justice for children and adolescents in Latin America, different issues that boys, girls and adolescents suffer from in the region were addressed as well as the European experiences.

At the opening ceremony, the President of IAYFJM, Dr. Marta Pascual<sup>1</sup> welcomed **more than 240 participants** and the national and foreign speakers, focusing on the necessary inter-institutional action both at a national and international level about the issues that go through childhood and adolescence and the children and youths in conflict with juvenile penal law, on the basis of a specialized training, restorative practices and knowledge of the reality to work on.

At this opening ceremony the Minister of Justice and Human Rights of the Nation Dr. Germán Garavano; the Under Secretary of Justice and Security of CABA Dr. Hernán Najenson; Dr. María Angélica Gastaldi, the President of the Supreme Court of Justice of Santa Fe and the Network of Women for Justice; Dr. Juan Fumeiro, Vice-president of International Children Defence; Dr. Juan Manuel Sandoval, Representative for Latin America of Terre des Hommes; Dr. César Raúl Jimenez , President of the Argentine Association of Magistrates, Officials and Children, Adolescence and and Family Justice Professionals( AJUNAF) and Dr. Rodrigo Cataldo President of the Magistrates Council of the Province of Buenos Aires, commented on their views about the need to work together with the State Agencies, to guarantee the effective access to justice in

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<sup>1</sup> Argentinian judge that last May in Paris took over the Chair of IAYFM.

terms of equality and without discrimination, the importance of becoming agents of change for a human rights culture; to promote the necessary reforms from the regulatory context, to reach consensus to solve the problems of a more complex society that is ideologically intersected with the development and enforcement of public policies.

The **panels of key-note speakers from different parts of the country**, from the Region and from abroad <sup>2</sup>, tackled issues such as: good restorative practices for youths in conflict with the penal law; international return of children, gestation by substitution and the voice of children and youths in legal proceedings, the progress made in Argentinian case-laws and in Comparative Law; the possible solutions regarding a juvenile justice case (from the view of a Prosecutor from Brazil, a judge from Canada, a judge from the USA and from Switzerland); the future of youths and work, and Justice for children and adolescents.

Main ideas were highlighted such as: working on restorative practices with the participation of the victims and the youth involved as well as society in a process of recomposition ; the inter-institutional approach being the key element in that restorative task; the importance of taking the contexts into account; the issue of the migration phenomena; the need to count on reliable data regarding juvenile justice and the reality that youths go through.

The proceeding of international return of boys, girls and adolescents, the complexity of such proceedings, the precautionary measures, exemptions and the interaction and coordination among the courts involved, were developed through the applicable laws and the experiences in Argentina and in Uruguay. **The best interest of the child and the right of the child to be heard were pointed out as crucial rights and guidelines.** Training and passing procedural legislation were considered to be fundamental tools to speed the required paperwork as well as the respect for the best interest of the child.

**Gestation by substitution from different perspectives**; because its regulation in the Civil and Commercial Code is a must; the status of the right to an identity; the triple filiation; human trafficking; the experience in Chile; the different socio-economic realities that surround the gestation by substitution; myths and realities; the right that judges have to investigate on the aptitude of the principals, the dignity of the person; to

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<sup>2</sup> Brazil, Uruguay, Mexico, United States, Canada, Switzerland.

investigate whether it is a sale, what if the gestating woman changes her mind; the advisory opinion on the topic of ECHR; and the current jurisprudence, were discussed by the panellists.

Talks were given on **the youths and their future**, about their insertion in the educational system, the need for shorter courses of studies and work expectations pointing out those things that make youths happy. Also, the issue regarding the future of work was discussed, the duration of the working day, the new occupations or jobs required in the future and the replacement of men by robots and artificial intelligence.

**The right of the child to be heard, to be listened to**, was also discussed in light of the local experiences; how to conduct interviews; how to interpret the silences or the lack of cooperation of children to talk at the proceedings; the “active”<sup>3</sup> listening; as an approach from an empathetic view towards the child, not only by the judge but also by the inter-disciplinary teams. An adult-centred view was identified in the proceedings and the need that childhood is singled out and to go from discourse to reality.

As regards children and youth justice, the views and reflections provided by judges from other countries proved interesting, depicting their<sup>4</sup> reality, **the impact an absent State has on childhood and adolescence**, and the involvement of organized crime groups, gangs or cartels; the structural violence youths are exposed to and the consideration that before committing a crime, they are also victims. In addition, from reality abroad, (In Brazil for example) a view on childhood was presented, the importance of support social networks and the integration of the different resources of the State, coordinated by a committee, created in view of the drafting of a law that provides the suitable legal framework to avoid a dispersion of resources and timing in situation-solving that involve boys, girls and adolescents.

**Things in common were identified during both days at the Congress:** the influence of economic, social and cultural rights in the development of boys, girls and adolescents; the importance of quality education; health for the youths; having a perspective of infancy and gender for all public policies and actions in view of the guarantee and promotion of the human rights of the children; to provide tools for the

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<sup>3</sup> “Active” listening that involves interaction with the child, to respect, observe, not to advise, or say what has to be said or what the child is expected to say.

<sup>4</sup> As in Mexico for example.

construction of a life project that includes the youths human rights; the enforcement of the ESCR by the guarantor States because the integral development of children is severely affected before an absent State in this respect and the importance of working on prevention. Thus, education as a key tool for children and adolescents.

Finally, training, **specialized education of all agents involved in the areas related to infancy and adolescence**, either in the Executive branch, the Judiciary one, and the Legislative one, constitutes a key element for the fulfilment of the rights of infancy, together with the appropriate budgets and an interrelated performance among the different areas in order to avoid wasting resources and time, as well as revictimization, achieving an actual promotion of rights and an effective legal protection.

At the end of the congress, possible scenarios were set out for future meetings in view of the 2021 World Congress with a wide program together with the host institutions.

It is worth pointing out that before the beginning of the Congress, a meeting of the Committee of the IAYFM and the Regional Advisory Council of the IAYFM was held, (the latter took place at the Faculty Room of the School of Law at UBA).