

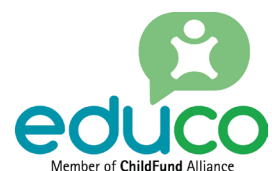
photo: DANIELLE PEREIRA

THE RIGHT TO EDUCATION AND CARE IN EARLY CHILDHOOD: PERSPECTIVES FROM LATIN AMERICA AND THE CARIBBEAN

Executive summary



Campaña
Latinoamericana
por el Derecho
a la Educación



This document is the executive summary of the study on *The right to education and care in early childhood: perspectives from Latin America and the Caribbean*, an initiative carried out by the Latin American Campaign for the Right to Education (CLADE, by its Spanish acronym) and the World Organization for Early Childhood Education (OMEP, by its Spanish acronym) Regional Vice Presidency for Latin America, with the support of EDUCO Education and Cooperation Foundation. Camilla Croso and Mercedes Mayol Lassalle were in charge of the editorial coordination. Mercedes Mayol Lassalle was responsible of the research and writing, with the assistance of Astrid Eliana Espinosa Salazar and contributions from Camilla Croso, Giovanna Modé, Adelaida Entenza, Peter Moss, Salomão Ximenes, Vital Didonet and Iliana Lo Priore. Documentary compilation was carried out through the collaboration of Astrid Eliana Espinosa Salazar, Analía Quiroz, Mercedes Mayol Lassalle, Iliana Rodríguez Villoldo, Gustavo Paiva and Elisângela Fernandes. We would like to thank Mikel Egibar (EDUCO Education and Cooperation Foundation) for his invaluable contribution, as well as the invited members of the Consultative Council of this study: Fernando Salinas-Quiroz, Gabriela Etchebere Arenas, Beatriz Elena Zapata Ospina and Vital Didonet. The full version can be downloaded for free through this website www.campanaderechoeducacion.org. The full or partial reproduction of this document is allowed provided its content is not modified and the source is mentioned. São Paulo, September 2018.

THE RIGHT TO EDUCATION AND CARE IN EARLY CHILDHOOD:

PERSPECTIVES FROM LATIN AMERICA AND THE CARIBBEAN

Executive summary



Campana
Latinoamericana
por el Derecho
a la Educación



The guiding principle of this study is the acknowledgment of children as holders of rights and the realization of all the rights enshrined in the Convention on the Rights of the Child (CRC, 1989) and the rest of the international human rights instruments, as well as the promotion of a coordinated, integral and multisectoral approach to early childhood. We share the idea that early childhood is not only a period in life to prepare for adulthood but a significant and meaningful stage itself, and we reassert education as a fundamental human right since birth. Based on this, we discuss the different meanings given to Early Childhood Care and Education (ECCE).

The CRC marks a new era in terms of the definition of childhood and the recognition of children and adolescents as holders of rights and the State as the guarantor of the protection, respect and realization of these rights. This legal frame is reinforced by a group of General Comments issued by the Committee on the Rights of the Child, that further define the scope of what is set out in the Convention, in different dimensions. For the purpose of this study, we underscore General Comment N° 7 on implementing child rights in early childhood, reinforcing the need to embrace a coordinated, integral and multisectoral approach to early childhood.

A key principle reaffirmed by the Convention is the best interests of the child, understood as a group of actions and processes that aim at ensuring a holistic development and a decent life, as well as providing the necessary conditions, both physically and emotionally, to ensure his/her highest well-being and a full life. The prevalence of this principle involves the compelling need to realize all the rights of early childhood and adolescence, whereby the State has the obligation to comply with and interpret all conventional and unconventional norms on the human rights of the child. Enforceable rights that also compel family and society.

Furthermore, there are a series of world declarations and commitments regarding ECCE. *The World Declaration on Education for All* (Jomtien, 1990) already acknowledged that “learning begins at birth” and that “this calls for early childhood care and initial education” (article 5). Likewise, 10 years later, at the World Education Forum (Senegal, 2000), the first goal approved in the *Dakar Framework for Action* set out the commitment to “Expand and improve comprehensive early childhood care and education, especially for

the most vulnerable and disadvantaged children”. But we must highlight that the approval of the *Moscow Framework for Action and Cooperation* at the first World Conference on Early Childhood Care and Education held in Moscow, in 2010, has been a guiding and powerful instrument for the elaboration of ECCE public policies across the world and for the realization of the human right to early childhood education.

In the same way, among the *2021 Educational Goals* (2008) promoted by the Organization of Ibero-American States, we must highlight the goal to increase the provision of early childhood education for children aged 0 to 6 and to optimize its educational component; the *Lima Declaration*, adopted at the Regional Ministerial Meeting of Education for All in Latin America and the Caribbean: Current State and Post-2015 Challenges (2014), ensures an inclusive and equitable access to quality learning for all - children, youth and adults, at all levels of the education system, from ECCE to tertiary and higher education. More recently, the *Incheon Declaration* (2015) represents the commitment of the education community to support the Sustainable Development Goals (SDGs) through a proposal to ensure inclusive and equitable quality education and promote lifelong learning opportunities for all. In terms of early childhood, specifically, goal 4.2 sets out: By 2030, ensure that all girls and boys have access to quality early childhood development, care and pre-primary education. In the *Buenos Aires Declaration E2030: Education and skills for the 21st century* (2017), the education ministers of the region reaffirm the respect of early childhood education and the commitment to continue expanding the ECCE programs, with an emphasis on marginalized and/or excluded groups, through the provision of quality services that promote the comprehensive development of children and the active participation of families and communities, engaging interinstitutional and intersectoral partnerships.

We stand on the assumption that the first step for the realization of the human right to education of all children aged 0 to 8 is their full acknowledgement in legislations and their implementation through institutionalized public policies, with enough funding to guarantee all the specific aspects of this educational stage, as well as the existence of legal and judiciary mechanisms in place to allow the protection of interests and rights, as well as remedies in cases of violation.

Thus, this study seeks to delve into understanding the existing early childhood education policies and legislation in Latin America and the Caribbean, as well as its financing and justiciability processes, identifying progress and also challenges involved in the realization of the human right to education of young children. At the same time, it seeks to understand how the principles and purpose of education enshrined in the CRC and its General Comments, appear in those education public policies and legislations. Through a better understanding, we hope to be able to contribute to the full acknowledgment of children as holders of rights and the recognition of early childhood education as a fundamental human right.

For research purposes, we used the concept of early childhood set out in General Comment N° 7, i.e., aged 0 to 8. Additionally, the analytical approach used in this study is a human rights-based approach rooted in international human rights instruments, from a normative point of view, and, committed to respect, protect and realize human rights, from an operational point of view. As analytical reference, it uses what the Committee on Economic, Social and Cultural Rights (ESCR, 1999) sets out in its General Comment N° 13: "... education, in all its forms and at all levels shall exhibit the following interrelated features: Availability, accessibility, acceptability and adaptability."

This study is focused on the analysis of national legislations and public policies in force (particularly general education laws) in 10 countries of the region: Mexico, Cuba, Dominican Republic, Costa Rica, El Salvador, Honduras, Argentina, Bolivia, Brazil and Colombia. Without claiming to be "state of the art" in this field, the study is a contribution to early childhood care and education, adding up to other significant efforts carried out and ongoing in our region. This effort does not tackle the myriad of issues related to ECCE and while it offers relevant considerations and recommendations it also leaves new questions for further studies.

KEY FINDINGS

After reading the binding human rights frameworks we observe that despite the powerful definition of children as holders of rights, enshrined by the CRC, and the valuable guidelines on the right to education and its purpose, and on what is understood by early childhood, there is still an absence of specific indications on how the human right to education is realized in early childhood. On the other hand, there are important challenges in terms of the effective implementation of intersectoral approaches of the rights of the child, where the right to education is a core part, even to determine financing and the mechanisms of legal and political enforceability of those rights.

The General Education Laws in Latin America and the Caribbean recognize education, either explicitly or implicitly, as a human right and a social good. Likewise, they underscore the State's responsibility to ensure the full exercise of the right education since early childhood, with different baselines: some countries, such as Argentina, Bolivia, Brazil, Colombia, Cuba, El Salvador and Dominican Republic consider this right since birth, and others, such as Costa Rica, Honduras and Mexico, consider it since the child is 3 or 4 years old, and, within their social policies, they have complementary laws in place for early childhood care since birth.

Together with the General Education Laws, most governments of Latin America and the Caribbean enabled the emergence of laws for the comprehensive protection of the rights of children and adolescents, as well as laws to create health and social policies. This means that the General Education Laws coexist with other regulations that contribute to the practices and policies addressing ECCE. This is a characteristic feature of ECCE, which is ruled by coexisting norms from different public sectors that may present contradictions in terms of approach. This range of norms presents discontinuities in building ECCE's institutionality and governance, hindering the coordination between State sectors and actors, the proper use of resources and the effectiveness and transparency of financing as well as the creation of policies that comply with the principle of indivisibility and interdependence of human rights.

In terms of ECCE's name in legislative frameworks, the existing heterogeneity poses the challenge of delving into the identity of ECCE and defining the best way of naming institutions, education level and public policies in this field of education, to remain consistent with the normative proposals and principles issued by the CRC.

At the same time, based on the experience of Brazil, this report underscores how the instruments of justiciability can be promoted with three main objectives: to keep ECCE as a permanent public priority through social pressure strengthened at judiciary level; to open communication channels with the judiciary system, public agents, researchers, nongovernmental organizations, social movements and networks working in the field of early childhood, evaluating the actions of the judiciary itself; and to demand and strengthen public planning to ensure and monitor this fundamental right.

Regarding ECCE public policies developed in countries from Latin America and the Caribbean, their proposals are highly diverse in terms of: intersectoral and sectoral care; government sectors on which they depend, either directly or multilaterally; government level; private, community or public administration; practice orientation; target population; age and groups of children; profile of adults in charge of the work with children; geographical environment where they are developed; proposal formats, schedules; as well as the sources of the allocated funds.

Thus, despite social progress and paradigm shifts, there are still ambiguities in State diligence, particularly for children less than three years old. This usually leads to public policies with partial scope, even in particularly serious cases of abuse and abandonment, and welfare-oriented policies prevail, addressing only the poorest or more "vulnerable" sectors. In early childhood social representations and policies in force in Latin America and the Caribbean, we could say that there are still arguments, prejudice and practices linked to old paradigms, as well as overlapping and fragmentation of programs.

Therefore, the Committee on the Rights of the Child itself has stated that "In many countries and regions, little priority has been given to

early childhood in the development of quality services that have been frequently fragmented” and “its planning has been little systematic and with lack of coordination”, also referring to the fact that, in some cases, it has been “mostly taken care by the private sector and volunteers, with no resources, norms or enough guarantee of quality”. Based on this, it urges to “develop rights-based, coordinated and multisectoral strategies to ensure that the best interests of the child are always the guiding principle” as well as the provision of services based on “a systematic and integrated approach to create laws and policies for all children up to 8 years old” and with the support of information and oversight systems.

Regarding the attendance of children to education facilities, there are proposals that are first and foremost educational, or more focused on social protection, or even holistic ones, with “educare” approach, more common and with more demand in urban areas. Its availability is strongly affected by the fragmentation of the provision based on the children’s age. It is worth mentioning that in the case of children aged 4 to 8, the education sector in governments has acquired a leading role, creating institutions or opening new classrooms in schools within the education system and authorizing the private administration of institutions, with a significant increase in provision, ensuring greater access of children aged five and four to early childhood centers and of children aged six and seven to primary school, and there is a growing trend in the region to further extend coverage in those age groups. On the other hand, the education sector offers few centers for children since birth and up to 3 years old, so this is covered by other public sectors such as social protection or development sectors, as well as by community programs and the market.

Despite the enrollment expansion, inequality in terms of access persists because households with high socioeconomic level are 30 percentage points above the access values of five-year-old children from the poorest households. Inequality in terms of access is also confirmed in other age groups such as those aged 3 and 4. The report *Perspectives on Education in Ibero-America 2016* (OEI) is one of the few reports that considers access to education of children less than 3 years old. This report shows the progress in the region regarding the access of this age group to ECCE,

as well as the huge gap between the access of children over 3 years old and the access of children from birth up to 3 years old. It is worth highlighting that there is little information available on ECCE enrollment in Latin America and the Caribbean and it has not been updated; generally, census do not include a compilation of detailed data on the situation of early childhood and in some countries their diagnoses are based on permanent household surveys, but most of them only reflect the reality of large cities.

Another important aspect to underscore is that the mandatory and, thus, free nature of ECCE is limited. International agreements, particularly SDG4/ Education 2030, provide this at least for the year before attending primary school and, in many countries, it has been extended to two and three years before primary. Free ECCE provided by governments increased insofar as declared mandatory. However, the private sector still has an active role in age groups where education is not mandatory. Therefore, access still highly depends on the economic status of families that are able to afford it. That is why, in the region, ECCE is a privilege for some people, more than a human right for all, particularly from birth up to 3 years old.

In terms of availability, in general, there is a significant lack of facilities, particularly for the age group from birth to 3 years old, and there hasn't been enough construction of buildings across Latin America and the Caribbean: education is provided in rooms that were built for other uses in primary school buildings, in remodeled houses, in community spaces, and also in impoverished and even unworthy places. Governments are acknowledging the need to establish regulations to run ECCE services, setting standards for equipment, safety and building conditions, implementing registration, oversight and inspection systems for institutions, particularly for those administered by the private sector. However, this process is slow and unequal, hindered by insufficient investment in ECCE.

The right to ECCE not only involves access to institutions and programs, but also entails the provision of quality services, from a holistic and cross-disciplinary approach. However, huge inequalities are observed in this sense, due to little investment in ECCE as well as the partial nature of

their educational purposes and proposals, which range from those focused on ensuring only the survival of the smallest ones, to those focused on comprehensive and holistic proposals. Low quality provision usually correlates with initiatives addressing children living in extremely poor conditions, thus, injustice doubles because they do not have access to rights neither at home nor in ECCE institutions; while children from the most privileged sectors enjoy a varied provision.

If we analyze the ECCE proposals, their curricula are mostly aimed at children older than 3, they are differently organized, and with varied levels of flexibility and implementation. Although both the CRC and the Moscow Declaration (2010) underscore the importance of ensuring quality through pedagogies that are in line with the needs of children and that value play, love, cooperation, talent, creativity, happiness, and the promotion of self-confidence and autonomy, active learning and a focus on children, we observe in the region perspectives more focused on learning achievements from ever younger ages, leading to what may be called “primarization” of ECCE. This trend goes hand in hand with an increase of learning measurements based on the application of standardized tests, often promoted by international organizations.

One of the key requirements to guarantee quality ECCE is to have enough and adequately trained educators. We can say that there are different certification requirements for ECCE educators, not only among countries but within each governance subsystem: education, development or social protection. At the same time, the level of certification of educators in the different countries under study is unequally distributed, depending on the geographical region where they work, the age, and the different professional skills presented. Diversity is also expressed through the quantity and distribution of qualified and unqualified educators, between children less than 3 years old and children aged 3 to 6, with different levels of training and tasks assigned. Generally, early childhood educators working with older children are better trained and paid. Likewise, in the countries under study, one of the prevailing features in the professional field of early childhood education is the feminization of the profession. In Latin America and the Caribbean, the percentage of women working in

the provision of this level of education is significantly higher than the percentage of men.

At the same time, in institutions under public sector oversight there are guidelines and regulations that determine the ratio between the number of children assigned to each educator; the younger the children, the lower the ratio. A proper ratio, providing enough educators, represents a guarantee to ensure an ECCE with a holistic approach that considers the pace and needs of younger children in their development, as well as their rights to participation, play and culture. However, this target has not been widely achieved in the region.

RECOMMENDATIONS

Based on the acknowledgment of significant progress observed in the region, particularly since the adoption of the CRC, leading to important legislative adjustments and after dealing with different issues in this study, we can affirm, in general terms, the need to continue stressing the relevance and priority that must be given to ECCE in legal, political, budgetary and institutional frameworks so that they are deeply rooted in the best interests of the child and grant greater protection to their rights.

More specifically, it is worth mentioning that public policies overall disregard the age group from birth to 3 years old, including the ECCE policies and programs, with implications for all human rights, as well as the dignity and well-being of children.

Based on the guiding principles of this study that acknowledge children as holders of rights and the need to ensure the realization of all the rights enshrined in the CRC and in the rest of the international human rights instruments, in particular the right to education in this stage of life through a coordinated, holistic and intersectoral approach to early childhood, the following recommendations are made:

1. Public policies aimed at ECCE must be based on a rights-based approach and the comprehensive and intersectoral definition of early childhood promoted by the CRC

It is essential that institutions and public policies aimed at ECCE respond to a rights-based approach with its four interrelated dimensions (availability, accessibility, acceptability and adaptability) and the integral and holistic definition of childhood promoted by the CRC, overcoming approaches of welfare-oriented and tutelary protection that ignore the rights of the child. This imposes the need for better coordination among the different sectors,

ministries, agencies, authorities and government actors, as well as the coordination of different territorial levels of government. It also imposes the need for a better coordination between the State and the families, in line with article 18 of the CRC, i.e., the State must support parents in the development of their role, always for the best interests of the child. Likewise, overcoming the fragmentation of ECCE and its segmentation by age groups is fundamental. It must be considered in a comprehensive way, from birth to 8 years old, with legal, political, institutional and budgetary frameworks that acknowledge it as a fundamental human right and as the first stage of the human right to education, and with political-pedagogical concepts in line with the set of regulations and recommendations issued by the Committee on the Rights of the Child. Most importantly, we must move towards terminology harmonization, overcoming the issue of using different names across the region that resonate in diverse and sometimes contradictory approaches.

2. ECCE must be fully available and accessible for all, since birth, without discrimination

Fundamentally, enough coverage and accessibility must be guaranteed, on equal terms, and without discrimination. We can observe that, although coverage of the age group from 5 years on, or the mandatory age, has increased significantly in recent years, there is still a large gap in terms of availability of ECCE provision and enrollment, particularly in the age group from birth to 3 years old, as well as in social sectors that are economically lagging behind and in rural areas. Likewise, the comprehensive guarantee of the right to early childhood education involves having an adequate infrastructure, both in terms of accessibility and safety, conditions for construction and architecture work, geographical location, according to the definition of childhood and the standards of protection enshrined in the CRC, the General Comments of the CRC and other international human rights instruments. There is a need to tackle precarious facilities as well as inadequate human resources and physical conditions that are typical of ECCE in Latin America and the Caribbean, with some exceptions.

3. Quality is a key dimension for the realization of the right to early childhood education and must lie at the heart of the ECCE programs

Emphasis and priority must be placed on quality ECCE, to ensure access for all without discrimination, regardless of economic status, geographic location or other characteristics. We need to overcome urgently the current fragmentation in terms of ECCE public policies in the region, through an approach to quality that responds to the rights-based perspective and the principles of the CRC, which is not verified in practice. This implies an ECCE that promotes comprehensive, relevant and permanent processes that coordinate developments and learnings, paying special attention to those groups of children who suffer discrimination and marginalization. It also involves an ECCE that respects gender equality, recognizes and values racial-ethnic diversity and promotes interculturality. In this sense, the design of the curriculum plays a vital role, and must be focused on the promotion and respect of rights in early childhood and adopt the holistic perspective of the rights of the child promoted by the Convention, adjusted to the historic and geographic context. In this sense, we recommend challenging trends towards the “primarization” of ECCE, which push for early literacy and academic achievements from very young ages, towards educational models that are not very respectful of childhood and the educational provisions deriving from the CRC.

4. The assessments of the ECCE programs must respect the characteristics of the early childhood years and the education purposes derived from the CRC in terms of early childhood

It is essential to delve into and address, from a human rights perspective, the issue of an increasing implementation and/or imposition of national and international standardized assessments and the logic of academic achievements in the field of ECCE, paying special attention to the possible impacts that this can have on the right to education, as well as on the set

of rights that must be guaranteed in this stage of life. In this regard, we remind that General Comment N° 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts, remarks the possible deprivation of the rights of the child enshrined in article 31 of the CRC as a consequence of the importance assigned to formal academic success, and draws attention to the fact that early childhood education is increasingly focusing on academic goals and formal learning, at the expense of participation in recreational activities and the achievement of more general development results.

5. It is important to acknowledge and value ECCE educators, addressing initial and continuing education, fair pay and the overcoming gender stereotypes

A fundamental action is to strengthen public policies aimed at valuing educators in the field of early childhood and addressing their initial and continuing education, in the specificities of the field of ECCE. Likewise, the pay received by ECCE educators cannot be less than that received by their peers working at other education levels. These policies must consider actions focused on overcoming the existing feminization in this education level as well as interrelated gender stereotypes that lead to approaches based on a logic of maternity and care roles, historically assigned to women.

6. Funds must be foreseen for ECCE and guaranteed in public budgets, sufficiently and consistently with the needs of this educational stage

The acknowledgment of early childhood education as an integral part of the right to education means that governments must ensure proper financial and budgetary frameworks to enable its full realization. We urge governments to take note of the provisions of General Comment N° 19, on the preparation of public budgets to enforce the rights of the

child, in accordance with the principles of effectiveness, efficiency, equity, transparency and sustainability and in all its stages: planning, approval, execution and follow-up. It further states that the lack of proper investment in early childhood has an impact on the development of children and reinforces deprivations, inequalities and intergenerational poverty. The existence of financing for education laws that consider early childhood education comprehensively, including the age group from birth to 3 years old, leads to a larger and more protected budget allocation. Public budgets that disaggregate the expenditures allocated to ECCE in its different age groups also help monitor the financing policy of ECCE and design budgets that are increasingly robust and consistent with the demands of this educational stage. Likewise, free education is known to condition the universalization of provision. In this regard, international, as well as regional and national legal frameworks must strengthen their guidelines regarding free public ECCE, on the basis of the gradual expansion of gratuity at all educational levels.

7. The consolidation of information and data collection systems is necessary to strengthen the implementation and follow-up of policies addressing ECCE

Overcoming existing gaps in terms of availability of statistics, particularly regarding the age group from birth to 3 years old is vital, and systems for the collection of data and appropriate and disaggregated information on the situation of rights in early childhood, including the right to education, should be implemented and/or strengthened. This will allow the development of more solid diagnoses and analysis, which contribute to the design of more informed public policies, adjusted to reality and in line with a rights-based approach and the best interests of the child.

8. The importance of strengthening effective mechanisms of access to justice, ensuring protection and remedies for violated rights

In order to guarantee the enjoyment and exercise of the right to early childhood education, it is crucial to have in place effective mechanisms that allow easy and quick access to justice and to ensure immediate and adequate protection against any violation (justiciability), defining restitution and remedy measures in the face of the violation of this right. As the ECCE, even in the age group from birth to 3 years old, has been recognized as an integral part of the human right to education, processes and mechanisms of justiciability have been developed, and jurisprudence already exists in this field. However, it is necessary to further strengthen these mechanisms, in terms of extending information to citizens about their rights to ECCE, as well as the existence of clear and effective procedures and institutions to provide remedies for violated rights.



Campaña
Latinoamericana
**por el Derecho
a la Educación**

Av. Professor Alfonso Bovero, 430, sala 10
CEP 01254-000 São Paulo - SP Brasil
Phone/Fax: (55-11) 3853-7900
campana@campanaderechoeducacion.org
www.campanaderechoeducacion.org