

Violence Against Children in SPAIN

Relevant extracts from an NGO alternative report presented to the UN Committee on the Rights of the Child

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www.crin.org/docs/resources/treaties/crc.30/spain_plataforma_ngo_report_eng.doc

[...]

A sufficient knowledge of the Convention has not yet been achieved. Therefore, even in the areas in which it is known, it is considered as a mere declaration of intentions and not as a binding legal instrument. Future progress will have to be oriented towards effectively guaranteeing the exercise of the rights recognized in legal instruments, towards a larger reference to the Convention as positive law and towards a larger reference to the Convention in court practice.

[...]

It can be said that in the last years the Administration has demonstrated an increasing concern for eradicating sexual abuse to children. Nevertheless, we consider that some deficiencies still exist that should be corrected in the short term. We cannot forget that our country too is affected by the reality of the sexual tourism, in Central America fundamentally.

We emphasise, first, the absence of preventive programs conveying a positive vision of child sexuality and specifically addressed to children belonging to groups at risk. We believe that the authorities should promote the preventive aspects of sexual abuse. This preventive responsibility has to encourage the launching of awareness campaigns intended to promote, likewise, the social attitude of rejection towards such practices. All the actions that are taken in this direction can help to relieve the reality of exploitation and child sexual abuse not only in the Spanish context but also at a more global level.

Another question of special importance is the sense that expresses the current criminal law as regards children's corruption. In Spain, the decision has been taken to maintain the majority of sexual age at 13 years; since then, the child is considered as sufficiently developed to be involved in any kind of sexual activity, provided that he or she is consenting. Until recently, it was understood that this majority existed already at the age of 12. At the time when the II Report was drafted, this regulation still applied (Vid. II Report...). At the present time, it has been extended until the age of 13 (Vid. The modification 11/1999 of April 30 (CP)). In spite of the fact that this advance is important, it does not seem to be sufficient.

On the other hand, it is necessary to further, as far as possible, the physical and psychological rehabilitation of the children who have already been victims of sexual abuse. From this perspective, we think that a number of actions must be undertaken, including:

Firstly, coordination should be improved between all the people who may be involved in an individual case of sexual abuse (family, health and education workers, prosecution service, the judiciary, lawyers, law enforcement agencies, etc...) Besides, it has to be noted that, as a rule, no integral and individualized treatments are set up involving the relevant practitioners. Additionally, some of these practitioners appear to have training deficiencies as regards children related matters. In our view, protocols of action should be concluded in order to provide a suitable, flexible and effective answer to this problem.

In relation to the judicial proceedings, we have to indicate that, occasionally, this implies a 'revictimization'. Generally, in every criminal case where the child appears as victim, the finding of the

facts should have its limit in the necessary protection that the public authorities must give to children. The child's lack of maturity, both mental and physical, imposes the adoption of certain care measures aimed not only at the defence of the child's interest but also at the safeguard of such fundamental principles for a democratic State as legal certainty and the equal protection of the law. It is of vital importance to find the mechanisms that make possible the efficiency of both principles, so that the examination of evidence neither increases, on the one hand, the damage to the victim, nor it diminishes, on the other hand, the rights of the suspect. In spite of recent modifications of the Code of Criminal Procedure and of the Code of Civil Procedure, it seems to us that further work must be done in order to establish more specific formulae with regard to the treatment of the children who get involved in any type of judicial proceedings. In this respect, we consider very important for the child to be informed, as it happens in other countries of our environment, by means of leaflets or through support lawyers, about the trial, what will happen in it, what people he will see and what the role of each one will be, including him or herself.

[...]

Although there has been support for campaigns aimed at the eradication of physical punishment, relevant changes must be introduced as soon as possible and explicit clarification is required that the parents, in the exercise of their right or in the fulfilment of their duty of reprehension, are not allowed to use any type of physical or mental violence.

[...]

In relation to this section, important difficulties exist in the process of obtaining quantitative information, as well as enormous limitations for its official approval and treatment. According to several researches followed up by different regional Ombudsmen for Children, family privacy constitutes an obstacle for the visibility of children and it often prevents the compilation of information relating to children's labour, since this takes place, especially, in the area of family business or in the agricultural sector where the own family of the child conceals the situation.

In the same way, among the children whose families have economic difficulties, it is common to devote part of the time to a number of activities that generate a small income as way of complementing family economy: small activities as apprentices in various jobs such as street trading, harassment to tourists or, even, mendicity.

The main repercussions resulting from this situation are the frequent school absenteeism or school lag, the loss of interest in the educational world, the progressive detachment towards the peer group, the constant loss of leisure and free time, the initiation to drop-out activities and/or underground economy, the physical risk.

Under the Spanish law children should not stay in the street at school hours, but the existence of numerous cases in which this happens is a fact.

There is a need to develop a system of greater control of the situation of the children in order to prevent their labour exploitation, as well as a number of alternatives allowing children's vocational training with a view to subsequently entering into the labourmarket.

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As far as children interned in care centres are concerned there would be much to say. There is not only a lack of material resources (a technical team may have to handle four hundred files in one year) but a certain deficit has been also detected in practitioners' training. These reasons, among others, make us think that a real control and periodic and individual monitoring of the cases can hardly be carried out.

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If the average levels in the OCDE have fixed themselves in a 5.75% for funding educational institutions, Spain is not very far from it, but it still stays bellow because only a 5.30% of GNP is devoted to education.

Besides this report reveals that education expenditure per student, both in primary and secondary education, is negative for Spain; and the data becomes even worse in the case of superior (university) education.

[...]

Television offers images and representations of reality that little children accept as a true experience; what doesn't appear in the media doesn't exist. In this false reality violence holds the power and negative stereotypes get strengthened. Even in programs conceived for children, those negative contents can be found occasionally. Besides, publicity recurs to psychological techniques in order to create consumer patterns of behaviour, and if these needs remain unfulfilled, they can generate upsetting, anxiety and violence.

[...]