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COMMENTS ON THE INITIAL REPORT DEPOSITED BY THE PROTUGUESE
GOVERNMENT WITH THE UN COMMITTEE ON THE RIGHTS OF THE CHILD
CIVITAS

May, 1995

SOME REMARKS ON THE INITIAL REPORT DEPOSITED BY THE PORTUGUESE
GOVERNMENT WITH THE UN COMMITTEE ON THE RIGHTS OF THE CHILD
ABSTRACT

This document contains some remarks on the Initial Report deposited by the
Portuguese Government with the UN Committee on the Rights of the Child, reference
being made to its circulation and that of the Convention.

On the basis of data obtained in the course of a project of research on, and action with,
families with HIV/AIDS infected children in the south of Portugal, specific measures are

proposed which Civitas considers as vital.

It concludes by suggesting the setting up of new mechanisms pursuing a global policy for child protection in order to render effective both the Convention and Portuguese applicable law.

1. Correspondence between the Convention and applicable Portuguese law

The information contained in the Initial Report (hereinafter "IR") is correct but a preliminary to establish the degree of correspondence preliminary analysts is necessary between the rights covered under the Convention and under Portuguese law. Such assessment if only based on the IR is difficult, the more so since no published works exist on which we might substantiate our exam.

Civitas has thus decided to start by undertaking such analysis (Annex hereto) enabling it to have a clear view of both sets of norms and to produce a clear document of easy consultation for any interested party. We have also updated references in the IR to Portuguese applicable rules arising from the promulgation of the amendments to the Criminal Code which came into force on October 1, 1994.

2. The contents of the IR

We agree to the general constructive attitude underlying the IR. However we would like to draw attention to the fact that the reader may be led to have an over optimistic view of the real situation as to compliance with the rights of Portuguese children.

In fact the IR is unbalanced to the extent that it particularly stresses and exhaustively describes useful policies, projects, programs and actions undertaken or to be undertaken by public and private bodies to the detriment of a similar exposure of existing needs which are presented in a mitigated way.

We also note that the IR supplies few objective data allowing an accurate definition of some situations, which are thus only vaguely referred to. Some examples:

(a) The IR states that "a significant part of the Portuguese population still lives with some needs" when recent studies indicate the existence of about 2 million poor;

(b) The IR mentions the "many needs still existing" in connection with the structures of support to disabled people without specifying how many children are actually getting such care or lacking it;

(c) In what concerns child labour the IR says that "its real size is not accurately known" which is true. The figures available according to the two main Unions are not coincident and both differ from those given by the Government. The same happens in relation to illegal immigrants, computed in the IR at 70/80,000 according to official data or 100/120,000 after a catholic organization.

Therefore, the report shows that research in the area of childrens' problems is rather incipient in Portugal and that it is urgent to stimulate progress in this field to render better and more objective information available to all those involved.

3. Diffusion of the IR

The IR has not been widely distributed as necessary. It was published in a magazine of small circulation and many NGOs were not even informed of its existence.

The IR states that a national action plan was drafted and submitted to "decision by the relevant authority". We regret that the plan was not disclosed and discussed at national level and that, so far, no decision has been announced.

Nevertheless, we welcome its very existence and mainly the fact that it concludes by the need to set up a new permanent structure ensuring "the task of promoting, coordinating, executing and assessing the programs and policies geared towards facing the needs of Portuguese children", since this has been the main Civitas' claim from the Portuguese Government.

4. Diffusion of the Convention

In our view the Convention's diffusion has not been satisfactorily made, reason why it is not known even by bodies connected to these issues. The actions carried out for this purpose referred to in the report, together with those undertaken by the Institute for Child Support (IAC) have not been enough, and further creative and efficient efforts are necessary to make them familiar to both adults and children.

5. The problem of HIV/AIDS infected children

Though Civitas has pioneered defense of human rights in Portugal, its interest in the field of children's rights has been determined by a specific and urgent task: the effective application of the rights of children suffering the severest form of social exclusion - HIV/Aids infected ones.

Thus, in addition to our general remarks on the IR we will focus our attention on this problem.

In December 1994 a multidisciplinary team was organized (including paediatricians, lawyers, social security workers, pedagogues, psychologists, public health nurses, teachers and social sciences scholars) to implement a project of research on and action with families having HIV/AIDS infected children. This group, on the basis of its knowledge of the Portuguese situation acquired through the professional activity of its members and of the data obtained, is intended to contribute to put in place a more effective multidimensional intervention with the families and children affected and to defend their rights.

Up to now, data collected in the south of Portugal (the most afflicted area) point to the existence of the following situations;

(a) In Portugal as well as in all other countries, human immunodeficiency virus infections have been on the rise.

The heterosexual and IV drug abuse transmission among the sexually active population prevails which explains the increasing numbers of infected children.

In Lisbon, in the largest paediatric hospital of the country, 270 children of infected mothers are presently being assisted. Though practically all infected children born in the main maternities in the south of Portugal are referred to this hospital, it is known that an important part, probably about half, do not reach the hospital after discharge from maternity where besides some are abandoned by their mothers.

Of these 270 children, born to infected mothers registered in the hospital, 20% are lost to followup after two consultations, their present addresses being unknown.

Sociological analysis shows that 43% of these mothers are black mostly from Portuguese speaking African countries while 75% are unmarried, out of whom 40% live with their mates.

In 71% of the cases the maternal infection was caught through heterosexual intercourse and in 10% of these, the partner is a drug addict. Moreover 25% of the mothers are also drug addicts, the great majority of children coming from disegregated families living in chaos and desperate poverty, uneducated, subject to defective health care and grim housing facilities. Among the immigrants. beyond these social and economic problems,

cultural and communication difficulties should also be accounted for.

This situation demonstrates the weaknesses of an inoperative health system and the lack of organized social mechanisms able to fight the consequences arising from a chronic disease, especially taking into account the fact that in this case not only the patients are affected but the healthy members of the family suffer the impact of the situation as well.

The condition of orphans now constitutes an emerging problem as important as those already indicated and to which no solution has yet been found in Portugal.

Social measures enabling reintegration of these children in their families are scarce which will inevitably lead to an increase of child marginality or to forms of institutional confinement with all social costs involved.

On the basis of these data, Civitas considers it imperative that the following measures be taken ((a), b) and c) specifically applying with priority to families with HIV-AIDS infected children):

(a) House support by social workers, public health nurses and specifically trained volunteers, now totally inexistent;

(b) Priority to the allocation of social housing which depends on municipalities. It should not be forgotten that many families now living in shanties cannot wait indefinitely for a decent home.

(c) Setting up of psychotherapeutical support structures not bureaucratically minded as the few existing ones in paediatric hospitals, in which patients take months to be examined, subject to long waiting lists;

(d) No job discrimination;

(e) Granting of a minimum family income;

(f) Training of terms to help African people with cultural and integration problems;

(g) No discrimination of illegal immigrants presently not covered by any social security scheme;

6. Conclusions

From the work done to assess how the rights established in the Convention are reflected in Portuguese law, it is possible to draw the conclusion that the latter positively corresponds to the Convention's provisions.

The urgent task lying ahead is thus the effective implementation of such rules. In fact the existing needs and lack of coordination of the resources to fight them constitute the evident and sometimes brutal reality.

We thus it is vital to set up permanent mechanisms to pursue a global policy for childhood by (i) stimulating research of childrens' problems, (ii) creating an information system allowing an objective assessment of the situation and an accurate knowledge of deficiencies and needs, and (iii) deciding, evaluating and promoting the projects, programs and actions undertaken by both public and private bodies.

[Home](#)

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