

**ADDITIONAL REPORT TO THE SECOND REPORT
SUBMITTED BY SPAIN TO THE UN COMMITTEE ON
THE RIGHTS OF THE CHILD ABOUT THE
IMPLEMENTATION OF THE UN CONVENTION ON THE
RIGHTS OF THE CHILD**

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I. INTRODUCTION.

The UN Convention on the Rights of the Child, ratified by the Spanish Parliament on November 30, 1990, entered into effect on January 5, 1991. Since then, and to date, the Spanish Government has drawn up two progress reports. The "I Report on the implementation of the Convention on the Rights of the Child" was submitted on August 1993, and the "II Report of Spain on the implementation of the Convention on the Rights of the Child 1993-1997", on February 1999.

The Platform of Children Organizations, in which 24 organizations (see annexe) are represented that work for the promotion of the rights of the child, decided to put forward an additional report to the one drawn up by the Spanish Government, in a constructive spirit and with the aim of promoting various lines of action for the next years, emphasizing the difficulties that have been detected in implementing the Convention on the Rights of the Child in our country.

For the elaboration of the additional report of the Platform of Children Organizations four working groups were set up. All of them began by analysing the current situation of the subject matter and the difficulties encountered in the recognition of the related rights in every working group for the establishment of the aims and priority lines of action. The following working groups were set up:

- Working group on legislation
- Working group on family environment and alternative care
- Working group on child's health and well-being
- Working group on education and leisure time

The work of summarizing and preliminary drafting and documents resulting from contributions of the various organizations involved in the process was carried out by Ignacio Baño Ona, collaborator of the Platform of Organizations for the Child, in the year 2000. Later, Manuela Macía Ovalle and Muriel Brihuega Álvarez updated and translated this report, adding also some statistical data and bringing in new information.

General considerations.

From the end of the seventies, Spain has experienced deep changes of political and sociocultural nature that have entailed substantial transformations in social relationships and in the structure and in the behaviour of the institutions.

In this climate of changes, the role of the children in the Spanish society has acquired new dimensions and the child has turned into an object of attention and knowledge, obtaining an increasing consensus in the consideration of the children as subject of rights. It is possible to assert that child issues have played an important role in the development both of government policies and of the regulatory framework.

In this respect, we consider highly positive the very production of the Action Plan for the Child for 1996, although, for the moment, the relevant appropriations have not been

entered into the budget and the consolidation of a System of Social Care for Children in social difficulty.

Regarding the legal promotion derived from the enactment in Spain of the Convention on the Rights of the Child, we can say that it has reached an important level of development.

Along this study we will make few references to this legislative tendency; we believe that the II Report gives full account of it. We will only say that, at a state level, the Organic Law of Juridical Protection of the Child of Partial Modification of the Civil Code and of the Code of Civil Procedure 1/1996, of January 15 (LOPJM) (BOE - Official Gazette- n. 15), of January 17, is its main example. Nevertheless, 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.

On the other hand, the public authorities too have failed to develop a system of information that would give an overview of the situation of the children in our country. There is a lack of appropriated mechanisms for collecting, analysing and publishing regularly the information required to control the social indicators related to the well-being of the child. The shortage of statistics regarding children as a sociological category, the various aspects of its welfare and the degree of recognition of its rights, is a reality towards which important efforts must still be geared. This is due to diverse factors, as the invisibility of the child in the family, the diversity of bodies responsible for children's matters or the non-existence of homogeneous breakdowns concerning age groups, since the child (0-18) is not considered to be a unit of analysis in the different sources. This prevents, to a great extent, from carrying out a full evaluation of progress made and difficulties encountered in the implementation of the Convention. Therefore, many of the assertions made in this paper have no chance of getting logical verification. We don't have data to back up evidence. A proof of this is the report that Spain submitted to the UN Committee on the Rights of the Child, which does not include all the actions undertaken by the local authorities due to the difficulty to obtain this information. This fact is serious, because authorities have the main role and responsibilities in the development and implementation of policies related to the child. From the POC, we understand that a continuous and coordinated information system is indispensable to be able to design and to orientate the necessary policies for the effective fulfilment of the rights set forth in the Convention, as well as to share information and reliable experiences between authorities and institutions. Recently, the Observatory of the Childhood was created, with the aim, inter alia, of centralising all the existing information about children (so far only the intention exists). When the Report was put forward (March 1999), this agency had not been yet set up.

Furthermore, we cannot forget that Spain lacks a general framework for policies related to the child of really intersectorial nature. Thus, in spite of the fact that in some specific areas there were convergences between different sectors in order to carry out certain actions, we believe that the existing coordination should be improved. In our opinion, it is essential to establish mechanisms that ensure the integrated action of child care and

protection services and sectors. At the Autonomous Regions' level, coordination between Department services should be improved; at the national level, Regions' actions need to be effectively coordinated. It is indispensable to have agile systems of information that allow to homogenize the information, to draw reliable and valid conclusions upon which to base action and to set up protection indicators and benchmarking mechanisms in the whole national territory.

Finally, we would like to indicate the insufficient endowment of human and economic resources geared to children. It seems evident that it is not enough to cover the whole demand of the child and adolescent population. Besides, one can observe the great inequality of the available resources in each Autonomous Region. The child, in many cases, will have more or less options to obtain an integral support depending on the region where he or she lives. Moreover, one can also observe the differences between Autonomous Regions in relation with the legal promotion of the rights of the children (Vid. II Report.... Opus cit, pag. 6 and foll.). Therefore, we can conclude that in our country different ways of understanding the needs and the rights of the child coexist. However, in spite of this plurality of approaches, we find a common denominator: our children are not a political priority.

II. SPECIFIC TOPICS OF SPECIAL IMPORTANCE.

II.1. Sexual abuse and sexual exploitation. (Art. 34 CRC)

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.

II. 2. Juvenile justice. (Art. 40 CRC)

In the recent years Spanish society has been specially aware of the situation of the present juvenile justice system.

Until the recent approval of the Law of Penal Responsibility of the Child (January, 2000), the situation that presented the administration of justice to children allowed for the following considerations to be made.

No priority was given to preventive action aimed at the evaluation and decrease of risk factors that are at the origin of the juvenile delinquency. We advocate the development of a juvenile justice policy, since we understand that in order to prevent juvenile offences, programs should be set up and policies should be developed at every level, in areas covering from community health to education and family help services. As a specific measure we propose the promotion, by the Public System of Social Services, of work carried out by street educators, family educators, mediators and all other system services or benefits that favour the attention to the child in a previous way to the commission of the crime.

A further matter of concern was the fact that, as soon as the crime has been committed, detention measures prevail over intervention arrangements in an open environment. This situation can be interpreted, to a certain extent, as a consequence of scanty offer in alternatives for the intervention. It was necessary to provide sufficient technical and human resources in order to foster the implementation of alternative measures to internment.

Besides, in the establishments in which custody measures are enforced, certain deficiencies have been detected that hamper dramatically the process of rehabilitation of the young offender. Only to mention some of them: internal rules have more a purpose of control than an educational one, the family of the young offender can reside very far from where he or she is serving conviction, overcrowded centres... It would be suitable, therefore, to establish oversight and supervision mechanisms as regards the practices that are at work in such institutions.

We think, likewise, that the existing resources should be adapted to every specific case. All the possibilities of rehabilitation available to young offenders in order to choose the most appropriate course of action should be considered. It seems fundamental, in order to obtain an effective utilisation of existing resources, to extend communication channels between Autonomous Regions.

The educational and rehabilitative intervention raised by this law is doomed to failure without a serious and rigorous assessment of the costs that its implementation will imply. In short, this legal text must necessarily be accompanied by a financial statement ensuring relevant budgetary allocations and facilitating the implementation of the envisaged measures and a political effort of all the institutions responsible for the enforcement of this law. Not only financial, but also human resources need to be assigned in order to support the implementation of the Law of Penal Responsibility of the Child properly.

Further to this a special assessment is going to monitor and analyse in the further coming time how the Law of Penal Responsibility of the Child has been implemented since it came into force at the beginning of this year. As this assessment is expected to provide very valuable information, special attention must be paid on it in the following months.

II. 3. Physical punishment. (Art. 19 CRC)

In spite of the fact that in the last years public authorities are more favourable to the legal reform of article 154 of the Civil Code, as a matter of fact, no changes have been brought about. In this context, we understand that the remark made in this respect by the Committee on the Rights of the Child to the first report submitted by Spain on the implementation of the Convention has been ignored.

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 reprimand, are not allowed to use any type of physical or mental violence.

II. 4. Child labour.

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.

III. FAMILY ENVIRONMENT AND ALTERNATIVE CARE.

For the production of this section the following articles of the Convention have been examined and evaluated: 5, 9, 10, 18, 20, 21, 25, 27.2, 27.3 and 27.4. From their analysis we draw the conclusions which, so we think, are consistent with the spirit of those issues in the Convention hereby described:

- The family is defined, at least a priori, as the ideal context for the satisfaction of the child's best interests. In this respect, to maintain the child in his or her family of origin is a governing principle in the search of solutions for a specific problem.
- Article 5 of the Convention indicates the respect due to those who perform parents' functions; nevertheless, it lays down an aim which represents, in turn, a limit: that "direction and guidance " ought to allow the exercise by the child of "the rights recognized in the present Convention ".
- Article 18 of the Convention recognizes the parents' common responsibilities for the upbringing and development of the child; but not only this. This article also urges the States to facilitate them the exercise of their functions.
- Every State Party is responsible for the protection and care of any child being in its territory. To this end, care formulae subsidiary to the family are stipulated with the explicit concern for the quality of services.

- A certain preventive inclination underlies in these articles; the Convention seeks to avoid risk situations to the child. Furthermore, one can identify various criteria to correct the damages that have eventually been produced.

With the intention of offering a description consistent with the title of this section, we will divide our study into two clearly differentiated groups: family environment and alternative care.

III.1. Family environment. (Arts. 5, 9, 10, 18, 27.2, 27.3 and 27.4 CRC)

Current situation.

Firstly it seems necessary to mention, though in a summarized form, which are the different family typologies that coexist in the Spanish society. There is certain available information that inducing to think that deep changes are taking place in this area. Not only the traditional Judeo-Christian-rooted family exists, but this one must coexist with other types of family expressions. In this respect, it is possible to observe a progressive increase both in not matrimonial unions and in single-parent families. We can conclude, therefore, that this structures as well as family patterns are undergoing a process of rapid and constant change.

Additionally, the settlement in Spain of families who come from other cultural and ethnic areas (Gypsies, North Africans...) implies the coexistence, within our territory, of very different criteria with regard to education and child care. We can find very diverse or even contradictory interpretations about what makes up the child's best interests.

The phenomenon of unaccompanied children (particularly North Africans) has increased systematically throughout the country from the beginning of the 90s, and more notably in regions as Madrid, Andalucía and Cataluña, as well as in the Spanish African cities Ceuta and Melilla. The number of unaccompanied children who were detected in the year 2000 can reach 1500 approximately, though this is not a very reliable figure, due to the fact that, occasionally, a child is registered more than once. This trend has overflowed child protection system in the Autonomous Regions. It appears as a phenomenon that should be more exhaustively considered in order to know it as much in depth as possible.

Finally, we will note that our legal framework guarantees the right of the child to remain in his family of origin and provides, within Social Services' functions, for the support to the family deemed necessary on a case by case basis (Vid. Art. 17 of the LOPJM or II REPORT.... Opus cit., pags. 76 and 77). Therefore, authorities' action should be aimed firstly, as far as possible, at avoiding the separation of the child, in his or her interest and in that of his or her own family (Vid. Art. 12 and 17 of the LOPJM or II REPORT.... Opus cit., pags. 76 and 77).

Difficulties.

One can detect an evident lack of human and material resources which would allow for the families "to be afforded the necessary protection and assistance so that it can fully

assume its responsibilities within the community" (Preamble of the Convention on the Rights of the Child of 1989). This is specially evident with regard to Gypsy and immigrant families. These groups suffer, in most of the cases, from grave situations of poverty, isolation and social exclusion.

On the other hand, the information about the new family patterns is insufficient. Our knowledge still refers to the conventional family. Thus, the existing resources are not distributed accordingly to the needs. Besides, there are numerous families who, due to various reasons (ignorance, marginality...) fail to have access to the assistance provided by Social Services. The observation of reality shows us that serious deficiencies still exist and that the measures adopted reach hardly the surface of the problem.

Concerning family reunification (art. 10 CRC), several difficulties are detected firstly, it appears that harmonizing the legislations of the countries which are involved in a specific problem is very complicated; secondly, the priority given by States Parties to the protection of their nationals can entail a great obstacle in cases where each of the parents have a different nationality; finally, we can indicate that in several occasions the content of this article has been used in order to promote the expulsion of certain unaccompanied foreign children without being sure of their acceptance and care by their family.

Aims.

With regard to the topic we are dealing with, it seems necessary to set out, at least, the following aims:

- The protection of the child should imply a positive concretion of the State's obligations towards the family. Our Constitution places the protection of the family as one of the governing principles of social and economic policy. (Vid. Article 39 thereof). We cannot forget that, according to the spirit of the Convention, this is the ideal place for the satisfaction of the best interests of our children. Preventive intervention plans addressed to families at risk must be set up with the appropriate allocations of resources.
- Social awareness campaigns should be launched with the aim not only of avoiding the violation of the rights of the children in their family environment but also of ensuring that those who perform the parents' functions have equal responsibilities.
- To improve the knowledge of the new family patterns and to elaborate procedures adapted to the cases of isolation or social exclusion so that the assistance is provided in consistence with needs.
- To promote the respect of the various family typologies that coexist in our country by furthering principles as normalisation and integration in the respect of diversity.
- Support given to families with small children must be increased. Thus, urgent action is required aiming at the creation and development, in number, quality and versatility, of services for the assistance and care provided to little children, both at school and leisure time (child-care, school dining halls ...) and that are adapted also to the labour schedules of the parents.

III. 2. Alternative care. (Arts. 9, 20, 21 and 25 CRC)

Current situation.

There are several reasons that can make it necessary for alternative protection formulae to be developed: death of the parents, abandonment, serious problems in the family's cohabitation, etc. In this section we will deal with cases in which, for some reason, keeping the child in his or her family of origin turns to appear to be non viable or inadvisable.

New Article 172 of the Civil Code establishes that the declaration of abandonment implies the taking over by public institutions, the child's guardianship and the adoption of all those protection measures required for his or her care. The new LOPJM shows us the way to understand this "State legal power". It differentiates between situations of risk and abandonment: in the first case action is to take place within the family environment, in the second one, the authorities are entitled *ex lege* to take over the child's guardianship and to take him or her, were appropriate, from the family environment. It is an action resulting not from an avoidable risk but from an evident abandonment.

In spite of this nuance, we find that the concept of abandonment refers to very differentiated realities. Authorities' action appears to be legitimised in two types of situations: when it is not possible any more to solve the problem within the family group or when the latter no longer exists. In our opinion, the great difference between these two scenarios is a reason, which legitimates, by far, the choice of a different line of action for each one of them.

The first case, thus, the intervention that is carried out after the child has been taken away, must be clearly geared: once the gravity is confirmed, "the goal to be pursued is to apply any potential remedy to do away with the factors that have led to the separation and to seek the child's rehabilitation in his or her family of origin". In the other case, the only objective to be pursued is to obtain, to the utmost of our ability, the child's well-being. Additionally, authorities' action has to be aimed, in any case, at avoiding, as far as possible, the damages that the lack of a family environment can do to our children.

In our country we find, as attention measures subsidiary to the family of origin, the placement in a care centre, foster placement and adoption. In the last years there has been a great decrease in the number of adoptions regarding Spanish children, and the placement, in their different modalities, has been the option most applied. With regard to international adoption, it should be said that it has become an option largely used by those families who do not want to, or cannot, have children in a natural way. Because of this proliferation and in order to avoid the so-called private adoptions, Collaborating Organisations have been constituted which operate under the control and the supervision of the bodies having responsibilities in child's protection. (Agreement of The Hague, November, 1995).

Difficulties.

The Convention on the Rights of the Child establishes, in its art. 9, that only the best interests of the child may be a ground for the child to be separated from his or her

family environment. In Spain, we have seventeen Autonomous Regions, each of them having its own powers as regards child's protection. Each of them is responsible, therefore, for finding the criteria that have to base such action. In that sense, it can happen that the same situation is interpreted differently depending on the territorial context in which it takes place. In this respect, we see as a matter of concern the fact that one of the articles which are common to all Autonomous Regions refers to the parents' economic capacity.

Moreover, in many occasions, the various authorities take action that is incompatible with the rights laid down in the Convention. For a start, the destiny of many of the children who go all the way through our protection system are caught by excessively bureaucratic procedures. The unit of administrative time does not suit the child's mental unit of time. For the child, two or three years mean an immense world of relationship that he or she does not want to break. In this context, there are cases of children placed on a pre-adoptive basis who, after four or five years of stay in their new family, consider it entirely as their own. Then, they get a notice, for example from the Provincial Court, compelling them to return to their biological family. A recent example thereof took place in El Royo (Soria), where the judge ordered for the child to return to his biological mother, with the aim of allowing her to improve her mental health. Here, priority was not given to the best interests of the child, who, at the moment, is in a care centre.

Another difficulty detected relates to the actions undertaken as regards unaccompanied foreign children. Most of these children come from Morocco and arrive in our country with a few expectations that can hardly be met with the protection system in which necessarily they have to take refuge. In the cities of Ceuta and Melilla the intervention is specially conflict-prone: those children who manage to cross the border are retained in subhuman conditions and expelled later by the Local Police. The situation mentioned here has provoked complaints, the involvement of the Prosecutor's Office and the initiation of legal proceedings. We do not understand why this problem does not appear in the report submitted by Spain to the Commission on Rights of the Child; it is a public fact that affects more than two thousand children and that is triggering action by the Public Prosecutor and the Judiciary, since it is a pressing problem in our country.

There are also numerous problems that affect the various resources that are used in our country as subsidiary to family action:

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.

As certain researches followed up by some regional Ombudsmen for Children show, another reason for concern comes from the problems that arise in foster placement with a member of the extensive family and, more precisely, with the grandparents. Sometimes, the extensive family lacks the necessary capacity, both physical and financial, to face the child's education and care.

Finally, we cannot leave out the use that is being made of the option consisting in the foster placement. While this is only used when the situation of the child needs the

adoption of a more stable measure, in many cases, it is becoming a previous step for those parents whose real wish is to formalise an adoption. The effects are specially serious when the return of the child to his or her family of origin is possible, even in a very long run: abandonment by authorities of their obligations with regard to the biological family, the foster family is not going to encourage the return of the child, the family of origin will feel unmotivated and, at the end of the day the child will fail to know where his or her place is.

Aims.

- To speed up procedures, both administratively as judicially, where a child is involved. The best interests of the child demand for any action that affects him to be respectful with his or her evolution stage.
- To do an individualised and constant follow-up of the situation of each child who enters into our system of protection. Besides, it is indispensable to apply alternative formulae of action for all those children who do not want to, cannot or do not know how to adapt themselves.
- To improve, in general, the quality of the services that are provided as subsidiary to the child's family of origin and, more exactly, to promote availability of foster families by using various means: awareness campaigns, training programs, financial aid...
- To find homogeneous criteria at the moment of identifying which are the best interests of the children who are in our territory. Likewise, we believe that this identification has to be respectful of the cultural differences already described.

IV. BASIC HEALTH AND CHILD'S WELL-BEING

There are many aspects that should be included under such a wide heading. Indeed, the longed child's well-being requires the effective fulfilment of all the rights set forth in the Convention. According to this, the section we are dealing with should analyse, thoroughly, the potentiality of that fulfilment.

Seeking to delimit this field of description, we have set a more specific aim: to define those situations that prevent some of our children to reach the most basic levels of health and welfare. With this aim, we have selected a group of articles as follows: 6, 23.1, 24, 26, 27.1 and 39. We draw from them, in synthesis, the following considerations:

- The quality of life of every child has to be understood from a holistic point of view, where the biological, social, psychological, moral and spiritual aspects are reflected. The child's quality of life, health and well-being constitute a whole: shortcomings in one of these aspects will have a negative impact on others.
- The obligation of the States Parties of guaranteeing the survival and the development of the child is not subsidiary to the action of the family, but direct. Likewise, it has to facilitate it to the utmost.
- The principle of non-discrimination has to reach, with regard to health, its maximum expression.

Current situation.

In spite of the existence of state legislation, its implementation by the Autonomous Regions is not uniform. The assistance and services to which our children can have access vary and depend, to a great extent, on the region where these children are.

This lack of interest has not favoured at all the production of general basic indexes in the measures of child's welfare. Children are not examined as a social group independent from the family and with specific needs defined by their evolutionary development. We believe that the situation described hinders, to a great extent, the systematic application of control and evaluation mechanisms regarding programs and policies for the child. Effective resources lack, likewise, as regards situations of child mistreatment. To date, general monitoring and action protocols have not been developed, specially in relation to protections measures. We lack, definitively, standardised detection and support methods on the cases of vulnerability, ill-treatment or abuse.

Teenagers pregnancies have increased. In the section of age range of 15-19 year olds it is quite clear that a high percentage of young people do not use any type of contraceptive method, as opposed to only 22% who do use one. In an article of El País ('society' page) of Friday, December 27, 2000 it was reported that: "four out of five 19 year old children never use a contraceptive".

Finally, we have to indicate both the lack of planning, coordination and evaluation of the preventive campaigns aimed at children and teenagers, and the little control existing on the instruments and materials used by children.

Difficulties.

In relation to health and health services (art. 24) several difficulties have been detected. We will mention only the most important ones:

- Certain medical assistance and health care are scantily covered or not covered at all. This is the case of mental health, oral hygiene and logopedics.
- The child's and the teenager's paediatric treatment ends at the age of 14 years, while, according to the Convention, it is considered that childhood covers until the age of 18 (art. 1). Additionally, we emphasise the fact that in Spain there is no general regulation as regards children's malnutrition.
- In some health centres rights enshrined in the Convention are not respected. Rights as privacy and confidentiality are frequently forgotten.
- A further difficulty detected refers to the situation of children with long-lasting diseases. In this respect, we know that during the time they are undergoing treatment the necessary coverage to their educational needs it is not being given.
- There are no preventive campaigns concerning the emerging situations among teenagers: food disorders (anorexia, bulimia...), unwanted pregnancies, alcohol and smoking...

In relation to mentally or physically disabled children, we find several reasons that prevent these children from "enjoying a full and decent life" (art. 23.1).

- The infrastructures are not very well adapted, many architectural barriers exist and in the space shaping, consideration is not given to the specific needs of these children. There are no channels for the participation of the users in the design.
- Little help is provided by the authorities to the families faced with the birth of a child with these characteristics. In this respect, deficiencies have been detected both at the information and welfare levels.
- Finally, we cannot fail to state the fact that these children do not receive the whole support they need. Occupational training programs are scarce and rehabilitation services are, in most cases, very far from their homes. In this context, we believe that it appears to be very complicated to facilitate the job of those who fight for their integration.

On the other hand, certain sectors of children's population, associated with situations of marginality (gypsies, immigrants...), survive with many deficiencies that are not remedied by the authorities. We are referring not only to economic inequalities but also to serious problems of access to resources. The specific needs of these groups regarding hospital beds, specific public health centres and qualified practitioners are not met. Besides, there have been quite a few cases in which the situation of illegality regarding the parents or the child him or herself has triggered discriminatory actions from the Public Health Service. In our country, the obligation of the States Parties to guarantee an adequate standard of living for all the children who are in their territory (Art.27.1) is too often forgotten.

Let's note the non existence of protocols for the abolition of those judicial procedures that are prejudicial to children who have been victims of abuse or mistreatment. As above indicated, very often, criminal procedure involves a revictimization (numerous questionings, defencelessness in the processes, change of domicile for the child...). In that way, it seems to us that his or her recovery and social reintegration can hardly be promoted. (Art. 39)

Aims.

- To homogenize in the whole State the planning and organisation of the basic resources that guarantee the health and the well-being of our children is as necessary as to clarify and to delimit the scope of power and of each the institution responsible for child's protection. All things considered, there is a need to set up evaluation bodies entitled to monitor the State legislation enforcement in the field of children's health and well-being.
- To set up effective information mechanisms on health resources available. In this respect, the establishment and dissemination of a guide for the purpose of defining the welfare resources for children is as important as the development of information exchange networks.
- To promote multidisciplinary groups in all the areas related to children (health, police, judiciary, education and social services, etc.), as well as to develop training programs for the relevant practitioners.
- It is essential to undertake further studies on children's health, well-being and development in order to elaborate criteria and indicators for the approach, preparation, monitoring and evaluation of programs.

- To develop an active health policy in the field of prevention by promoting social awareness programs for the protection and the furthering of a system that takes care of the health and the well-being of children. It is, therefore, necessary to promote, in the school education programs for the health (including the sexual orientation and the prevention of child sexual abuse) and the involvement of children and teenagers in those issues of health and well-being that touch on them.
- To assure the universal and free coverage of health services to all children present in Spain.
- To apply effectively an integral treatment in public health centres, so that the education is accessible to those children who, due to their situation, cannot be present at their school centres.
- To evaluate and to propose measures for the removal of architectural barriers in the spaces of use of the children (leisure areas, schools, social and health centres, public transport...) in order to promote town planning that gives consideration both to the specific needs of this group and to those of the relevant practitioners.
- To foster the fulfilment of the aims proposed by the WHO, especially in connection to the prenatal and perinatal attention. To promote the extension of paediatric attention until the age of 18 as well as actions aimed at encouraging breastfeeding. (There has been an increase in the rates of artificial nursing from the age of three months).
- To emphasize sexual education and reproductive health programs.
- To adopt preventive measures and strategies geared to control and to limit behaviour endangering teenagers' health, including tobacco, alcohol and drug abuse, since these habits are quite spread among young people. Various studies and opinion polls among our population show some tolerance in the Spanish society towards alcohol and tobacco abuse.
- To encourage an integral project of attention to the new-born child of drug addict mother. To this effect, specific arrangements for attention and treatment both to the drug addict mother and to her son, as well as health monitoring, psychological support and social assistance programs after hospital discharge.. It is also necessary to increase training aimed to practitioners and drug addict mothers.

V. EDUCATION, FREE TIME, AND CULTURAL ACTIVITIES

Present situation of education in Spain.

It seems important to underline the significant reduction of expenditure in education in Spain from 1995 until 1998, according to the report undertaken by the Organization for Cooperation and Economic Development (OCDE). This report assures that the percentage of GNP given to educational institutions reached a 5.53% in 1995 and fell to 5.30% three years later. This happened in spite of the increasing absolute figures of investment.

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 below 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.

Nevertheless, we must remark the achievements of education in other aspects; for instance, Spain is in a better situation than the majority of the countries of the OCDE because there are more teachers per student in primary and secondary education. Spain does better than the average also in the access to university degrees and it seems to be the “country where the number of graduates increases more quickly”.

V.1. Attention to the diversity in the educational centres.

Current situation.

From now onwards we will present a brief analysis of the articles 28, 29, and 31 of the Child Rights Convention.

In spite of the fact that the educational rights guaranteed by article 27 CE applies to all children in our country, we believe that this article doesn't fully reach those children with special needs or in specially difficult situations.

So for attention to diversity, we refer to the fifth title of the LOGSE (educational Law) and or more concretely to its article 65.3: “Apart from the provisions made in the fifth chapter of this law, the educational authorities will provide those centres whose students suffer from special difficulties with all the necessary resources (human and material) to compensate for this situation. The ultimate objective is these handicapped students should reach the general objectives of basic education. The organization and teaching planning of these centres will be adapted to the specific needs of the children”.

Difficulties.

In the period of Compulsory Secondary Education (ESO), disarrangements are appearing and the laws stand as well-intended declarations which aren't put into practice efficiently. We find children between thirteen and sixteen years old, who, owing to different causes (deserted children, family negligencies, violence within marriage, physical or psychological maltreatment, shortage of resources...) show an important school delay or a high degree of lack of interest in education. The social system doesn't seem supple enough to give an answer to the needs of boys and girls.

We can't forget that before the law was modified, during the period of Basic General Education (EGB), in which schooling lasted two years less, there was a non-despicable percentage of dropping out.

In the teaching course 1992-93, only the 69.6% of the children who had started eight years before finished their studies. The data related to the first degree of educational training is still more worrying: only the 50% of the students finished their studies. It doesn't exist enough coordination between the educational system and other Children Care Institutions. About schooling of gypsy, immigrant, foreign, or marginal children; we think that activity of the different state entities isn't always effective enough to cope with dropping out. The most important problems are the following:

- The number of backing teachers isn't enough to compensate the learning delay or the lack of linguistic command.
- The educational planning isn't attractive for the students.
- The absence of an effective alternative causes strain in the school rooms, discipline problems, rejection from the school mates, violence, absenteeism and finally dropping out.

Aims.

Some measures must be taken to tackle these problems:

- We think that the dictates of the Children Rights Convention must be known by the teaching personnel.
- Effective search for a way of encouraging teachers who work with this kind of children, so it's important that the Guidance Departments of Secondary centres have the suitable number of teachers to offer them the necessary assistance.
- Organization of educational, out-of-school activities. These activities must be chosen according to the needs and expectations of these boys and girls.
- The use of free time is essential to make up for social differences.
- Children Organizations activities must be promoted and the use of educational spaces (libraries, audio-visual schoolrooms, theatres, laboratories, sports tracks...) that are normally empty from 3 p.m. onwards.
- To conceive new educational methods which, coming from the same educational centres, may become a real alternative for students from 13 to 16 years old when they can't go on within the established educational system.
- So we have to put into practice the necessary measures to cope with diversity in this collective suitably. The ultimate objective must be that most of the students fulfil the minimum requirements, so that the inequalities can be compensated and educational backwardness reduced.

V.2. Leisure and free –time education.

Current situation (Difficulties).

Before starting, it's important to make a short distinction between leisure and free time. Free time has a quantitative value and it's defined as the time left after the fulfilment of personal and social obligations. Leisure time has a qualitative value and it's defined as an individually enriching use of free time. This difference must be clarified when talking about children. So we think it's necessary to concrete educational and /or creative objectives.

We can assure that nowadays children enjoy a high amount of spare time. Nevertheless, its bad use can suppose a hindrance either to obtain the desirable objectives in the family and school field or to develop certain potentialities. Our society doesn't always offer the necessary alternatives to achieve the best use of this time.

We think that the use of free time isn't coherent due to many reasons. For example, some of them are: abusive consumption of television and computing products, lack of

encouragement, places and times for personal and social development, etc...The offer of free time alternatives is very diversified but insufficiently controlled. So the flood of free time offer is frequently unsuitable to cover children's needs.

A bigger effort must be undertaken to give little children and adolescents, especially in big cities, the occasions to enjoy a gratifying and creative leisure time.

Leisure time must enhance individual capacities and foster those behaviour and attitudes which are socially positive. An adequate scheme of leisure time so as to provide juveniles with varied activities (culture, arts, tolerance, cooperation, sports, environment) is essential.

Following these idea, there are attempts to look at the actual conditions of little children and create some new ones. Among them we can mention the movements of pedagogical renovation who work opening the school to the world, environmental education, the application of gender issues to boys and girls, peace education, public and social initiative about free time, the work with socially marginal children, theatre for children, playing activities, editorial initiatives, etc. Despite the strength of these efforts, they are unable to become really influential in the setting up of children's life. The right to education is worldwide, but neither the right to free time education has been recognized nor can it be guaranteed by any means.

Aims.

It's necessary to find alternatives and introduce changes both in families and schools to change the situation mentioned before. We suggest the following objectives:

- Making and putting into practice whole free-time schemes for children.
- Establishing collaboration agreements between the Central Government and private associations which work in this field with the purpose of generating shared initiatives.
- Organization of the environment in order to have places and resources of a self-teaching and satisfying character.
- Use of games and playing activities to promote the development and evolution of children without sacrifice the original nature of playing. The ultimate objective is to reach a balance between education and entertainment.

VI. CIVIL RIGHTS AND LIBERTIES.

VI.1. Association and participation rights.

Current situation (Difficulties).

Seminars, congresses and conferences about association and participation of children have been organised. Despite all these activities, there is a lack of consensus about the participation of children and the role of adults. Besides children's involvement in association is scarce and the participation of minorities is even scarcer.

In the educational sphere the direct intervention of children is guaranteed. Nevertheless, the groups of children aren't so effective as it had been expected. These children must move in an adult context and adult opinions are sure to prevail.

From a legislative point of view, juveniles have the rights of association and participation (See Article 7 LOPJM: article 48CE: Royal Decree 397/1988) . But these rights don't offer practical results. When we consider association rights, it's necessary to be over 14 years and to possess the support of an adult with whole legal capacities to become the representative of the association, and when we analyse participation rights for children, there isn't suitable mechanisms to bring children's opinions before the different administrative entities. In spite of the existence of isolated initiatives, there is an absolute lack of local structures of participation where we can hear the opinion of children.

Aims.

The concrete objectives we propose are the following:

- Establishing children's committees in town or city council, which represent efficiently children and young people and can be turned into the main guide for local projects.
- Into these local projects, educational free-time agreements with related entities must be established to give stability and quality to town-hall activities.
- The opinion of children must be considered a very efficient element to design town-hall activities.
- Analysing the different alternatives of children's participation in social organizations and different state entities in order to find the best alternative for satisfying their needs.
- Updating the Association Law to make it suitable for the current situation.
- Increasing social organizations participation in state policies. We think programs must be established in order to make communication between children, young people and adults possible and efficient.

VI.2. Freedom of speech. (art 13 CRC).

Current situation.

In our Law, freedom of speech is formally guaranteed. Nevertheless, when we consider the real situation, there is an evident lack of means to guarantee the access to this right. The second report shows that freedom of speech isn't only freedom of individual speech but also the particular or public spreading of ideas or opinion. We think our children don't possess the necessary means to reach the public sphere where ideas are interchanged.

Aims.

- Increasing the number of publications where the children can say their opinion without problems. Apart from that, the means of social communication should

design spaces exclusively devoted to the expression of children's ideas and opinions.

- Within the school scope, students should be supplied with efficient mechanisms of expression and participation.
- To finish, we believe the State should support and strengthen the role of Town-hall Children Councils and other organisms of participation which reflect the situation of children, their rights and needs. A desirable objective is the creation of a childhood net, which establishes a connection between school and society to bring the voice of children before the community.

VI. 3. Protection of private life.

Current situation (Difficulties).

It isn't easy to define the situations which can be damaging for children, especially when talking about a right like private life; that cannot be defined with the necessary precision so as to apply it to the many possible contexts (historical, social, cultural, etc.)

From a legislative point of view, privacy is only an election, a freedom of action. Its protection is limited to the field that each person keeps for himself/herself and his/her family. It's evident that there must be a part of individual lives preserved from external intrusions.

Adults have the possibility of determining its contents. But, who define this right when applied to children?. If we answer that the family or central administration we are denying them the possibility of taking this right into practice. This is the standpoint adopted by the criminal legislator when he points out that in this kind of crimes, forgiveness from legal representatives destroys legal responsibility. See article 201, Penal Code or Second report, quoted work, page 66. LOPJM (Spanish Children Law) shows in its preface, that data or pictures about children cannot be spread, even although we have their consent.

So our analysis will focus on some of the problems produced by this lack of concretion, not to the right itself. We think it's important to report against the continuous clash of interests between mass-media responsibility of providing information and children's privacy. The events in which children are involved in any kind of illegal situation either as an offender or as a victim, generates and incredible degree of public attention and high audience rates.

The continuous use of children like an advertising resource, like players or television stars sometimes means an attack to privacy, but also hinders the practical exercise of other rights recognised by the CCR. But despite all these abuses, there isn't a social rejection towards these practices.

Aims.

- The contents of rights like privacy, honour and self-image of boyhood must be clearly determined. In this sense, it is essential to specify the situations in which a child suffers from an illegal intervention in his/her private life.

- Modifying the Law of Criminal Prosecution to guarantee that juvenile intervention in criminal judgements won't involve the intrusion in their privacy. It is also very important to avoid the use of data and images about children by means of economical punishment.
- Boys and girls must be trained to be conscious of their privacy.
- In the educational sphere, they must learn what this faculty means and the risks provoked by the lack of respect which prevails in society; in the legal sphere children must have the possibility of exercising their rights.
- Public opinion must change its current apathy and start a determined rejection towards the abuses of children privacy.

VI. 4. Access to a suitable information.

Current situation.

Day by day, information finds new channels to reach and increasing number of people, this is a peculiarity of modern societies. The barriers against information broadcasting become less and less strong. There isn't any doubt with respect to the benefits for all people coming from this technological development.

Nevertheless, we think that the appropriate education for children demands certain restrictions.

The Children Rights Convention assures that information can enhance the welfare of boys and girls. The article seventeen describes the juvenile right to materials and information capable of promoting their social, ethical, physical and psychological health. We have to deal with several doubts in these points: which information is suitable for children?; who must choose the information received by children?.

So there's a group of people directly involved: parents, teachers, television programmers and the Central Power: Only the joint action of different elements of the educational context of children can filter efficiently the information which reach the children.

The function of parents is essential; they must decide what is the kind of data left apart from the children's scope. They must also explain the information and make it suitable to the capacity and necessities of little children. The parents must help them to decide which is correct and which isn't; what is suitable and unsuitable; and finally they must establish the difference between reality and fiction. In spite of all this, the activity of parents is severely restricted, because it finds many obstacles: the reduction of the time devoted to family, the diversity of information sources the children can access to and the lack of technological knowledge from the part of adults. The other agents involved in education, in the majority of occasions, avoid their responsibility.

Teachers must assimilate these new kinds of knowledge in order to apply them in the classroom. The visual knowledge of such a great importance nowadays, must be approached critically and their contents chosen carefully. TV programmers, worried by marketing research and audience rates, forget their role as builders of reality for children. Public TV channels show the general lack of respect towards the interests and necessities of children.

As a logical consequence, almost all the researches conclude that juveniles are receiving constantly an enormous amount of information, which can affect their development in a negative way.

Internet and new technologies.

There are two main instruments to obtain access to information: Internet (new technologies) and television. Our report is focused on the damages coming from the reception of unsuitable information by children living in a radically different context from the one in which their parents lived. There is a sort of technological ways to alphabetise adult population, which increases the generation gap.

In these situation the negative influences flourish. There are at least two kinds of problems. The first one is the existence of serious cases of addiction, and the second one is the lack of mechanisms to control the access to certain web pages and video games, which makes the filtering out of pernicious information impossible. In any case, education is the best way to hold negatives influences out, even though other possibilities are open. Formative campaigns must be fostered in order to make adults and children sensitive towards the possibilities and dangers of new technologies.

Besides, Internet permits the knowledge and training about non-academical contents, and gives boys and girls the opportunity to choose the information they want to receive. And the contact among different cultures promotes values such as solidarity, autonomy and cooperation. But the new technologies will strengthen the chasm between those who have the capacity and money to access to new technologies and those who haven't. Politicians and civil associations must try to reduce these differences, because nowadays only families with a certain economical level can afford Internet expenditures and as a result a great part of children cannot use these technologies.

Television.

The negative effects of television are even more worrying. The amount of time spent in television watching, when compared with the rest of activities is really significant. There are many voices warning against the influence of television in children's development. There are theoretical advantages in this means of communication. It's an open window to scientific, cultural and historical discoveries. Makes curiosity and individual vision more acute. It can work as an educative instrument and it improves scientific and technical vocabulary, but many disadvantages spring from an inappropriate use and television also promotes consumerism. It provokes psychological effects, including nervous excitation, night fears and sleep disorders. Besides TV shortens the amount of time spent in reading, thinking, keeping relation with their families and friends, etc. It also enhances violent behaviour and aggressiveness and fosters criminal activities and imitation of negative ways of behaviour. TV creates false idols and gives extreme important to sex, money, frivolity, etc. It makes people less sensitive towards pain, poverty and human suffering. It creates false expectations about scientific and technical discoveries, and transmits information as if it was an undeniable dogma.

Finally television reduces the time devoted to physical exercise and fosters overweight problems.

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.

Governments must foster a radical change, giving strength to the educative aspects, at least in public means of communication: equality, solidarity, environmental matters and immigrant integration in society. In this sense, the attempt made by the Agreement on Principles for Self-Regulation of Television Channels signed on March 26, 1993 must be underlined. But there hasn't been the desirable abeyance of this agreement, so the self-regulation turned out to be inefficient. This is a shame, because only the agreements in which administrative television boards, defenders of TV watchers (who must be sensitive to children problems), etc. participate, have hopes of success; because they suppose the explicit compromise of programmers.

VII. CONCLUSION.

The Platform of Children Organisations is very pleased to submit this alternative report in the hope of helping to the drafting and monitoring process of the UN Committee on the Rights of the Child.

Even though Spanish children can be considered as some of the most privileged ones around the world, there are still very serious issues concerning children welfare that we have attempted to highlighted in this report with the final aim of providing children with a better life.

Special attention must be paid on the situation of certain minorities, which live in a country widely perceived as developed, but in which those minorities can still suffer from different kinds of discrimination, not having the same possibilities than others to reach the standard of living they deserve.

PLATFORM OF CHILDREN ORGANIZATIONS MEMBERS

- Aldeas Infantiles SOS España
- Asociación Centro Trama
- **Asociación** Corazón y Vida de Madrid
- Asociación Juvenil “Juventud y Medios de Comunicación”
- Asociación Mensajeros de la Paz
- Asociación para la Atención de Infancia, Juventud y Familia – INJUFA
- Cáritas Española
- Confederación de Centros Juveniles Don Bosco de España
- Cruz Roja Juventud
- Federación de Asociaciones de Scouts de España – ASDE
- Federación de Asociaciones para la Prevención del Maltrato infantil – FAPMI
- Federación Española de Guidismo
- Fundación ANAR
- Fundación Diagrama Intervención Psicosocial
- Fundación Esplai
- Fundación Familia, Ocio y Naturaleza – FONAT
- Fundación Save the Children
- Liga Española de la Educación y la Cultura Popular
- Meniños, Fundación para la Infancia
- Movimiento Junior de Acción Católica
- Organización Juvenil Española
- Proyecto Solidario Amistad Europea
- Senda, Movimiento **Senda, Desarrollo y Educación. Senda msde.**
- UNICEF - Comité Español.