

DEFENCE OF CHILDREN INTERNATIONAL – DCI SPAIN

SOCIOLOGY GROUP OF CHILDHOOD AND ADOLESCENCE - GSIA

THEMATIC REPORTS TO THE COMMITTEE ON THE RIGHTS OF THE CHILD 2017

- 1.- THEMATIC REPORT of DNI-España – THE CIVIL AND POLITICAL RIGHTS OF THE CHILDREN AND ADOLESCENTS IN SPAIN pages 3 to 17**
- 2.- THEMATIC REPORT OF GSIA – MIGRATORY ITINERARIES OF CHILDREN AND ADOLESCENTS IN SPAIN pages 18 to 30**



Presentation:

These thematic reports have been developed based on an agreement of collaboration between the association DNI-Spain (Defence of Children International, Spain) and the GSIA association (Group of Sociology of Childhood and Adolescence)

Through this agreement it has been decided to present to the Committee on the Rights of the Child (United Nations) two thematic reports, each one of these developed by each organization.

1.-THEMATIC REPORT FROM GSIA– MIGRATORY ITINERARIES OF THE CHILDREN AND ADOLESCENTS IN SPAIN.

2. - THEMATIC REPORT of DNI-Spain – THE CIVIL AND POLITICAL RIGHTS OF THE CHILDREN AND ADOLESCENTS IN SPAIN.

Thus, these are two products presented in jointly by both organizations, and developed by two different research teams, but with common criteria and approaches shared through a central coordination between the two organizations throughout the implementation process.

For the preparation of both studies, a synchronized fieldwork has been carried out, and in a specific period of time, with the aim of favoring and implementing between the two organizations the findings that have arisen during the research process. And, wanting to complement, in turn, other alternative reports made in Spain in this period, having been designed ad hoc a methodological proposal for this research that we present.

THEMATIC REPORT:

Civil rights and liberties and political rights of children and adolescents in SPAIN

Developed by DNI-España (Defence of Children – International)

Technical Coordination DNI Spain

Coordinator and Researcher:

Virginia Murillo Herrera

Support team in the applications of interviews and report revision

- Giovana Cangahuala
- Josué Antonio Díaz
- Ricardo Centellas

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I.- INTRODUCTION:

The present report provides a revision of the compliance of the civil rights, liberties¹ and political rights² of children and adolescents³ in Spain, and develops an analysis of the advances and challenges that as a country has in the recognition and exercise as social actors and citizens.

For that purpose, experiences carried out in this field were analyzed. This based on the existing bibliography reviewed and the interviews that were conducted with key informants, experts on child and adolescent participation, and professionals who are directly involved with this population. From different perspectives, political, management, technical and direct work with children and adolescents in different territories of the country, responded to the questionnaire, which was divided in seven sections of analysis: 1) Perception; 2) Knowledge, 3) Fulfilment, Realization and Discrimination; 4) Approaches, Facilitators and Limitations, 5) Participation, Autonomy and Citizenship; 6) Good practices and 7) Conclusions and Recommendations.

In the same way, the proposals made by children and adolescents were analysed, mainly those related to the processes of the State Meetings of Child and Adolescent Participation, and with greater emphasis the Manifesto elaborated by them and them at the IV Meeting held in Santander and the space of participation before the Congress of Deputies, where the Commission for the Rights of Children and Adolescents received for the first time a representation of children from different parts of Spain to hear their proposals.

A first element of difficulty encountered at the time of the investigation is that talking about civil and political rights of children and adolescents in Spain is somewhat diffuse and not understandable, because although the rule defines them in practice And social imaginary are not recognized as such, are not visualized, nor are they internalized as own by the rights holders in this case in particular, underage persons and neither by the general public.

A second element of reality is that Spain navigates between the duty to be and being, has managed to have a complete regulatory framework, overcome some gaps in the legal framework, making important changes to various standards and in particular to Law 1 / 1996 responding in this way to the concluding observations elaborated by the UN Committee on the Rights of the Child made to the Spanish State⁴. In the II PENIA (National Strategic Plan for Childhood and Adolescence) 2013-2016, a Priority Objective (Objective 8) was included, which addresses the participation of children and adolescents linked to adequate and / or safe environments. But the practice is another reality and has not achieved as much progress as the norm, nor in the generation of consultation processes for children and adolescents when defining the regulations, plans and programs aimed at their protection, development and participation.

A third element of understanding is based on the fact that the participation of children and adolescents in Spain is largely understood and reduced to the fulfilment of article 12 of the CRC (Child's opinion, right to express their opinion and account in all matters affecting it; the other rights of participation stipulated in that

1 Civil Rights and Liberties linked to participation in accordance with the Convention on the Rights of the Child: article 12.2. to be heard; Article 14.1. Freedom of thought and religion; Article 16. Respect for privacy and privacy. Categorization of the Defense of Children and Children - International, Costa Rica, Training Manual on Human Rights, 2010.

2 Political Rights related to participation according to the Convention on the Rights of the Child: article 12.1 opinion; Article 13 expression and search of information; Article 15 association; Access to information. Categorization of the Defense of Children and Children - International, Costa Rica, Training Manual on Human Rights, 2010.

3 It takes as a reference basis the concluding observations made to Spain by the United Nations Committee on the Rights of the Child: CRC / C / ESP / CO / 3-4 of 3 November 2010 and V and VI Report on the implementation of the Convention on The rights of the Child and its optional protocols submitted by the Spanish State to said Committee dated May 5, 2016.

4 CRC / C / ESP / CO / 3-4 of 3 November 2010, United Nations



instrument as they are the art.13 (freedom of expression, to seek, receive and impart information and ideas of all kinds), art.14 (Freedom of thought, conscience and religion) art.15 (Freedom of association, right to associate and hold meetings) and art.16 (protection of privacy) and art.17 (Access to adequate information), are limited by the cautions, forecasts and restrictions that the Convention itself refers to these articles, and also because an adultism, protectionist and paternalistic view prevails. Limits the full exercise of these rights and their interrelation. On the other hand, children and adolescents.

The fourth and last element identified as limiting, has to do with the fact that the participation of children and adolescents is not seen as a democratic exercise of all citizens, but the condition of minority of age, the need to provide protection (and control) throughout their development and learning; the progressivity of the degree of their maturity, makes the participation is applied in a fragmented way from concrete and specific experiences, in most cases accompanied and sometimes conditioned by adults.

II.- IMPLEMENTATION MEASURES

The Convention on the Rights of the Child (CRC) is an existing norm in the Spanish State and has contributed to the necessary measures to guarantee human rights and provide comprehensive protection to all minors. Among the rights that have been promoted through the implementation of the Convention are the so-called rights of participation and in particular the principle and right based on art. 12 of the Convention: the right of the child to give his opinion and to be heard in any judicial and administrative proceedings affecting him.

In the field of the participation of children, the actions developed to date are evident from different stakeholders and sectors, which allow collecting all learning for monitoring, reorientation and / or expansion.

The Child Protection Law, after the last reform, fully reflects these rights, including the rights of participation. It represents an opportunity in advancing the guarantee and protection of human rights. The problem is not in the legal framework, the problem is in the execution of that legal framework, facing the risk of remaining in dead letter and before the reality that cultural and social changes are more complex and cannot generate changes in the short term. Participation in legal and political documents is a right, but existing guarantees are not proportional.

Laws of citizen participation at the regional level are proliferating; however, they include little to the children and adolescents in their processes of consultation and drafting of bills and in the advocacy actions for their approval. Involving them in participatory processes requires differentiated, adequate information and different processes of participation. The Catalan Law and the Law of Andalusia explicitly mention the consultations of children and adolescents and become a living example.

2.1. The participation rights and the new Law 8/2015

The right to be heard (article 12 of the CRC) is covered by positive Spanish law in the different provisions of Spanish national legislation, within the national and regional level in the field of protection of minors. At the regional level, there is a disparity in the processes regarding compliance with the Convention in its entirety, and in particular Article 12 and other articles of participation.

The most recent event that has a state and regional impact is the adoption of the new Law 26/2015 of July 28, modifying the System for the Protection of Children and Adolescents; through which an effort was made by the Spanish State to improve the implementation of the Convention on the Rights of the Child, to comply with the recommendations of the Committee on the Rights of the Child and to ensure article 12 of the Convention and its interrelation with the principle of Superior Interest of the Child. It should be noted that these amendments directly affect several standards: the Organic Law 1/1996 on the Legal Protection of Minors; The Civil Code; The International Adoption Act; The Law of Civil Procedure 2000. In itself, a total of 21 rules that are affected by the reform⁵.

With the modification of article 9, the rights of children and adolescents to be heard and listened in both

5 http://noticias.juridicas.com/base_datos/Privado/557001-lo-8-2015-de-22-jul-modificacion-del-sistema-de-proteccion-a-la-infancia.html



judicial and administrative proceedings is developed in more detail and is brought into conformity with the Convention of the Council of Europe⁶ and General Comment 12 prepared by the United Nations Committee on the Rights of the Child on earth. 12 and the CRC and the rights of the child to be heard.

The guidelines of the Council of Europe are resumed⁷ So that they have adequate mechanisms adapted to the needs of the minor to raise their complaints before the figure of the Ombudsman, Ombudsman for Children or autonomous institutions in line with the Third Protocol of the CRC⁸ and to be heard and heard in judicial proceedings, making access to justice available to children under 12, but introduces a measure that may limit their participation, and determine the degree of maturity of the minor.

Another aspect is that it reinforces the effective judicial protection of minors, by introducing the possibility of requesting legal assistance and appointment of a judicial defender, as well as, the child, the girl and the adolescent can only testify one and will be assisted by child development experts throughout the process, ensuring that it is properly informed, protected from any abuse and re-victimized.

2.2. "The Duties of the Child"

The recent Law introduces in the new Chapter III in Title I of LO1 / 1996 in the section of "Duties of the child", where minors are recognized as holders, not only of rights, but also of duties. From this perspective, the duties of this population are regulated in the family, social, school environment and includes, among other duties, the obligation of co-responsibility in the care of the home and domestic tasks; To respect the dignity, integrity and intimacy of the people with whom they relate; The norms of coexistence of its educational centre or the environment, collaborating in its conservation.

In the process of interviewing different sources of specialized information for the present report, opinions vary and are polarized. Even if it is agreed that it is not yet known how it will be applied and emphasized that the pedagogical aspect should be rescued, not the punitive, non-repressive and should not be a simple reminder to the underage people about their Minority or about which they must comply. That it is necessary to modulate the burden of the duties in function of the maturity and the level of development of the children and adolescents.

1) From an educational perspective, it's good for children and adolescents to understand at an early age and throughout their development that their role as citizens involved in decision making by expressing their opinion also implies duties; 2) It reinforces the idea of an active person to be recognized by the children themselves, which means that an accessible and adequate processes of information must be generated 3) The location in the text of the law has implications and that if specified in the Preamble would not have had the same connotation; 4) It is concerned with what the Duties were inserted and that the reason for including in response to a part of Spanish society's distrust of underage people 5) We want to have more control backed by the protection discourse 6) It is intended to promote more repressive measures for children and adolescents and is concerned that the discussion of lowering the age of criminal responsibility, forgetting even if children are not incomputable, does not mean that they are not responsible.

It is indicated that the calling of duties, limits the pedagogical approach of responsibilities, which are closely linked to the exercise of active citizenship.

It is pointed out that Spain must first guarantee human rights without any discrimination and must create conditions that favor them; That the institutions, organizations and adults must put the means or contribute strongly (on many or all occasions with their own example) so that these duties can also be built in practice.

6 Council of Europe Convention for the Protection of Children against sexual abuse and exploitation, done at Lanzarote on 25 October 2007, signed by Spain on 12 March 2009 and ratified and published on November 12 in the BOE.

7 Guidelines of the Council of Europe on Friendly and Accessible Justice for Children.

8 Procedure of falls or communications, III Protocol to the Convention on the Rights of the Child, April 14, 2014 entered into force.



Finally, it is recalled that the human rights of children and adolescents are indivisible, inalienable, non-transferable, universal, enforceable and the State must first guarantee them and cannot deny them, nor can they be conditioned, both And in the event that children and adolescents do not fulfill their "duties".

Some experiences that surpass the discourse of duties and that can serve as examples in this process of application of the new Law 8/2015 are recognized; among them is the Catalan Law that speaks of rights and opportunities of the Childhood and the Adolescence and the Chilean law of rights and guarantees.

2.3. Strategic National of Childhood Plan (II PENIA)

The Childhood Plan (II PENIA) in force during the period 2013-2016 includes in Objective 8 the participation and adequate environments: *"To promote children's participation, favoring appropriate environmental and social environments that allow the adequate development of their capacities, defending the right to play, leisure, free time in equal opportunities, safe environments and promoting responsible consumption, both in urban and rural areas for the sake of sustainable development"*

Although the results of the evaluation of the II PENIA that is in full development are not included in this report, it's noteworthy that the participation of children and adolescents related to adequate and / or safe environments has been included, Without considering any measures and indicators that rescue the promotion of responsible citizenship and the work for the recognition of these as social actors and as protagonists of their processes.

On the other hand, and based on the interviews carried out and the bibliography consulted, progress in some Autonomous Communities is reflected in the implementation of child and adolescent plans with the participation of children and adolescents; In other cases only a plan has been developed, participation was symbolic and the design and development of other childhood and adolescence plans are not visualized.

However, in order not to limit its implementation, the Childhood and Adolescence Plans require resources. The crisis brought about important cuts that cut short the expectations of young people and adolescents in Spain.⁹

III.- THE GUARANTEE OF CIVIL RIGHTS AND FREEDOMS AND POLITICS

3.1. The guarantee

The civil rights and liberties and political rights of children and adolescents are mandatory. However, in the formal they are defined, but they are not assumed and internalized in the social imaginary and neither by the children and adolescents.

Therefore, talking about participation rights, even if they are not fully guaranteed, is closer and easier to understand, although the participation of children and adolescents generates confrontation with the powers, with the protectionist and controlling view that prevails and requires a greater degree of maturity and awareness on the part of adults, and spaces and opportunities for underage people. Generally, it is believed that we must move from theory to action and not as a simple fulfilment of the norm, but being proactive in it, and having transformative effects on reality.

The guarantee of the human rights of children falls on the Spanish State and this must be applied at all levels of action. Difficulties that limit the guarantee of these rights are reflected¹⁰, as well as difficulties in coordinating and articulating the parties to the system of protection.

3.2. Exercise of civil rights and political freedoms and rights

Although it's considered that there are not enough mechanisms for children and adolescents to exercise their

9 https://old.unicef.es/sites/www.unicef.es/files/Infancia_2012_2013_final.pdf / https://old.unicef.es/sites/www.unicef.es/files/Hechos-y-Cifras_Clave.pdf / <https://www.savethechildren.es/barometro-infancia/gasto-proteccion-social>

10 https://www.defensordelpueblo.es/wp-content/uploads/2016/07/Avance_informe_anual_enero_junio_2016.pdf / <https://old.unicef.es/actualidad-documentacion/noticias/espana-es-el-cuarto-pais-de-la-ue-con-mas-desigualdad-infantil/> / <http://www.informe-espana.es/las-cifras-de-los-desahucios/> <https://www.es.amnesty.org/en-que-estamos/espana/> <http://www.elmundo.es/espana/2015/07/25/55b2b061268e3e437d8b4598.html>



participation rights, some of them are valued as possible visible spaces that make the difference, although in some extent it's pointed out that processes, contents and the agendas are permeated by visions of adults:

- The Teenagers' Councils promoted by the Child Friendly Cities, and Town Councils.
- School councils in educational centres, where children and adolescents choose their representatives. In the classroom, they choose their delegates and class representatives.
- In their families, but depends on families, spaces, time and how it is managed, values and forms of upbringing, among others. Also of their own cultural values.

3.2. Participation, discrimination and diversity

In Spain not all children and adolescents exercise their rights and in particular the rights of participation in the same way. By their condition, contexts, culture, sensitivity, formation of the father or mother, or both, there is a greater predisposition to encourage participation and this population is acquiring a way of seeing the world and of interrelating with others or against the others.

There is concern that from the same educational system, from the policy of school segregation that in some public centres is being carried out, it's addressed to the population with greater risk level or in situation of school failure. In classrooms, trends of the education system itself is to isolate children with disruptive behavior. Somehow, real and effective participation in schools ends up by being linked to school success and the socioeconomic level of families¹¹.

There are violations that can be evidenced and that are given by the reality itself, institutional and social treatment to children and adolescents for being "unaccompanied minors" or immersed in trafficking, and for being in other realities and conditions of vulnerability.

IV.- THE APPLICATION OF THE RIGHTS OF PARTICIPATION OF CHILDREN AND ADOLESCENTS

4.1. Perceptions about what is being done

In recent years, there has been a recovery in the development of initiatives, participation bodies and action plans related to this matter. In particular, there has been more dynamism from the town councils and communities, which have joined in the development of active policies for children and adolescents and with their participation, which proposes, among others, the development of Participation Councils and has a regulation to promote participation¹².

The lack of coordination or, rather, the lack of harmonization of state, regional and local public policies regarding child and adolescent participation. There is a dispersion of approaches, actions, lack of greater synergies, and also of resources and energy among the Ministries, Departments - Ministries or Councils, with competence in: Education, Health, Social Services and Protection of Children and Adolescents, Sport and Culture, Justice, etc. In the Spanish administrations, there are obvious contradictions between speeches and actions, between decisions and actions, between plans and their implementation, between protocols and interventions, between theory and practice.

In addition, it's recognized that local initiatives and online processes or consultations of major importance have been promoted from the Third Sector; are not always sustainable processes. In some cases "guarded" participations are promoted, they do not create effective mechanisms that make participation in a natural *modus operandi*, nor as an exercise of active citizenship.

In both cases, either from the State or from the Third Sector the participation is expressed in the key of adults, that is, that the processes of child participation are directed more with the intention of opening formal channels and represent socially a figuration and not as processes Natural of participation and the exercise of citizenship.

11 <http://www.elmundo.es/sociedad/2016/02/10/56ba4fe1268e3e1b538b45bd.html/>

<http://www.mecd.gob.es/dctm/inee/boletines/educainee47.pdf?documentId=0901e72b8202aa4e>

12 The Town Councils joining the Friends of Cities for Children initiative and acquiring a seal, which is evaluated for its compliance periodically.



Based on the response provided by the State and the Third Sector as implementers, it can be seen that children and adolescents are often passive subjects and consumers of resources and, although they are asked about their satisfaction about participation in Activities or services, are generally not stakeholders, but are conceived as users.

At the level of the educational system, existing channels are considered insufficient and do not adapt to children's vision, experiences, maturity and ways of working. Structures such as the School Board are rigid and there are no real spaces for students to participate in the design of the centre plan. Rather, it is a space of representation rather than guaranteeing the voice and focusing on leadership and effective participation in decision-making. They do not work with the meaning of representing the others and of carrying their voice, nor with the adults so that they dialogue in parity and from an open and horizontal perspective, the aspects that concern and affect them.

At the family sphere, in most cases it's noticed that there is a similar situation. The opinion of the children and adolescents is not considered, neither as an end nor even as a process.

There is a difference in promoting processes with boys and girls as they are considered to be more docile and manipulative and it is thought that processes with adolescents are more difficult because they question and challenge because they feel decisions will ultimately be made by adults and not they end up seeing the value of the stake. This reflects that the methodologies to used cannot be uniform and must contemplate the conditions and circumstances of each one and of the collective or space with which one works. The participation is often is returned to them in opinion. But, they are not involved in the action; they are not involved in the change.

On the other hand, the processes that are driven to take their time and in particular the adolescents and require more immediate processes. This implies that they lose the value of participation that they see. It is necessary to relax and achieve more direct dialogues by overcoming the intergenerational barriers that are evident and in many cases distant children and adolescents and adults, in particular more adults because of their fears and difficulties of understanding the reasoning and manifestations different from the one's own.

Organized spaces are visualized that have been created and are directed and facilitated by the adults, valuing positive and negative aspects, being possible to improve: sports clubs, assemblies' cultural activities, consultations, meetings, etc.

In conclusion, it's conceived that the processes of child and adolescent participation are highly inadequate, as is the case with adults: there is no culture of democratic participation, on the one hand, it's not promoted enough and on the other, citizens do not make effective use of existing mechanisms and does not require compliance.

A conception based on the paternalism "welfare society" prevails and acts on all contexts. The crisis impacted¹³ drastically in children, adolescents and young people, and the State resumes, social and grassroots initiatives, provides assistance responses to meet the immediate needs and current realities of thousands of families. The citizen participation makes sense by demanding that human rights be respected in particular, those in conditions of greater violation. Children and adolescents become protagonists as the object of the messages of these demands and some efforts are developed by organized groups of minors, proposing proposals and demanding the Spanish State to listen to them and to attend to their demands¹⁴.

4.2. Approaches

The prevailing discourses on the rights of children and adolescents appear in all forums and in conversations with professionals and resources, appears simply as a recognition of their existence, but there is no conviction that this is a change in Action and in the ways and, in particular, assistance in the various services to children

13 And still have

14 Facilitated, accompanied by adults and in some cases led by adults.



at all levels.

It's pointed out that in the protection system and in social services, the discourse on the rights of children and adolescents and the human rights-based approach is not incorporated into their daily practice and there is still a long way to go. Which implies political decisions, greater definition in the protocols and in the guidelines of action, changes in the structures and in the organizational culture and of the professionals. Some dispersed efforts are identified with significant differences between the autonomies and a departure from the central administration.

It's pointed out that participation generates resistance from the professionals, the program operators aimed at children and adolescents. There is a perception that this subject is already known and that every professional is an expert on children's rights, which makes it difficult to fully develop.

It is indicated that the methodology of education and care for the minors, in particular in the care centers is standardized and does not adapt to the capacities, realities and needs of these. It's said that, in some cases, resources are insufficient and there are no installed capacities to follow up adapted to each child, which does not allow to attend to the specific needs of each child, for which minimum answers are offered in a general way.

A more qualified personnel is required in view of the types of problems identified and in view of the diversity of contexts from which each minor person comes. At the age of 18, another phase opens in which there are protection resources provided by the Administration or are in a situation of total lack of protection.

It's considered that participation is symbolic in many territories because it is necessary to transfer the participation of children and adolescents from the ideological terrain to the operative. It is more difficult to identify because it is necessary to observe and focus attention on indicators and critical elements, such as the relationship adults - groups of children and adolescents; the form and the fund, the "return" in relation to the proposals, opinions and commitments of the young people in the participatory processes, etc.

Participation is promoted as a specific and ad hoc process for children and adolescents without mainstreaming the opinion of children and adolescents in global decision-making processes, regardless of whether or not there are adults in them. Their participation of these is not approached from a questioning of the adult structures, from the created dynamics, from the thought, feeling and from the action; from what we remove or not.

In general, from the educational centres, there is more symbolic participation than real. However, there are educational centres that are working with innovative methodologies such as learning communities or learning services, which are achieving real participation processes with a lot of quality in the process and results of success in the purposes.

Although real participation is scarce, there are very interesting experiences and good practices, focused on the development of processes, generating motivation and strong values in the promoter team or adults involved. One walks towards real and effective participation from different fronts, even so, it's considered that there is a long way to go.

It is affirmed that manipulated participation exists and occurs in various spaces, institutions and groups. It is attributed to the fast times of achievement of results; To the dynamics and online networks, to social marketing and instant connectivity; To the absence and lack of presence of children and adolescents in spaces and activities of their own volition; To "conscious" adults who surround those who manage or lead that style of participation or activities with that style and stop collaborating or abandoning initiatives.

Some processes called "participation" are questioned in the face of national and / or autonomic plans, some of them being accidental, responding to the pressure of inclusion of the opinion of the children and adolescents and with ignorance was called these to give their opinion. Despite this, the above paradoxically the inclusion in national and regional plans an axis of participation and some processes are initiated in this field.



4.3. The facilitators and constraints

As a facilitating factor, the predisposition of official organisms is visualized through contemplation in the same law of application¹⁵ as well as in the Pact for Children and the operational instruments that emerge from it.

Among the limiting factors is the historical administration will to be providers of services and resources that energize the social sphere, creating a social reality of a paternalistic and non-participatory type (happens with young people, children and adults). The above to add to the consideration of the "minor" as an "incomplete" person, susceptible only to protect. Reflecting a social ambivalence in considering children and adolescents as "absolute guilty" of their maladaptive behaviours, (not as "responsible") and at the same time, very critical positions with the necessary educational measures (restriction of rights and liberties) to ensure the permanence of minors in behavioural treatment centres, among others.

The traditional structures that are implanted are very cautious before processes of change. The temporal factor is not sufficient and is not always adequate, nor do they have the conditions to do so.

It identifies the limitation of assimilating by the community involved (agents, entities, professionals) the real concept of participation; See children as subjects of law and with their own opinion. It's considered that one should break with the culture of saying not to the children and making decisions for them, without their real participation.

In family structures, as well as other geographic factors, maturation, etc. Limit or enhance the participation of children and adolescents, by way the right is not exercised in an equal manner.

Operational instruments continue be programmed during working hours by altering the school hours of children and because schooling is also a right, the implication is not facilitated. Programs and actions are developed with short-term vision and subject to the agendas of the administrations.

There is a prevalence of adult visions, from the decision-making, the implementation of methodologies, from the development of processes. In Education, and in the particular case LOMCE, it's pointed out that there is no plural and inclusive participation of children and adolescents. The best interest of the child has never been considered. It is a law with a clear neoliberal bias, which focuses on the training of students with an economic and market view.

It's noticed that in the state, autonomous and local policies the opinion and perception of children and adolescents from the participating spaces or in other ways, are not incorporated in an ordinary way near them. Only in areas that are considered "children's", such as leisure, sport, cultural activities, celebrations, to a lesser extent on social services (programs, necessities, services, etc.).

It is not seen in areas such as Urbanism (except for very specific aspects such as parks, squares on occasion, some slight experience in mobility plans, and yes on school roads), usually left to architects and the police.

There is a prevalence in the agendas the weight of the adult decision about what is important and the participation, what comes with childhood, adolescence and adulthood, what can and cannot be consulted.

V.- PARTICIPATION, AUTONOMY, SOCIAL ROLE, PROMINENCE AND EXERCISE OF CITIZENSHIP

5.1. Participation, Autonomy, Social Role and Citizenship:

The voices and presence of children and adolescents have gone far, and today they are becoming more visible and present in different spaces and sectors. The actions developed from the municipal level through the Participation Councils, the State Meetings that group this minority population that participate in these Councils, the consultations that have been sold are carried out as important and generate of this new situation, For various processes, from the virtual spaces or platforms created to express their opinions, from school, community experiences and protection centers. His proposals have been systematized in declarations and manifestos and his most recent presence in a political space, was before the Commission of Children and Adolescents of the Congress of Deputies.

15 In Cataluña (14/2010)



There is a consensus that children and adolescents bring their ideas, looks, proposals of all kinds, vitality and energy, generate adult cohesion. Especially at certain ages and, above all, they bring life and generate community security, especially when they occupy, play, enjoy and use public spaces, streets, squares, etc. They are usually transparent and clear in their approaches. Free from creative prejudices.

It's considered that his vision is very rich. From the optimism and the vision of the future, they are able to construct innovative and constructive solutions to the problems of the day to day. In addition, his great common sense, not distorted yet by the social and cultural conditions, is very revealing and refreshing to take decisions and to manage the public policies. In addition, children and adolescents have developed a sense of justice from an early age, and it is a pure sense, not biased by material and personal interests.

Taking them into account, effectively and real, would undoubtedly improve many situations and solve problems, because they generate synergies and more transformative experiential approaches.

However, the social or collective echo believes that their participation is still scarce, that it is more symbolic than real and that they are being listened to but are not being taken seriously or that their proposals are provoking agendas and changes Deep.

The opinion and listening of the children and adolescents as the participation as an exercise of citizenship is confronted by adult centered visions, before a society where its duty is to obey the adult and to the norms. They are listened to, but the adult decides. They are heard in some procedures more than in others it is not possible to modulate the weight of the opinion of the children and adolescents according to their age, maturity, etc.

There are social and cultural constraints that distort the meaning of rights, such as machismo, or xenophobia. In certain contexts, girls are less likely to express their opinion, either because of sexist attitudes or because of poverty and exclusion. The same happens with children and adolescents of immigrant origin, whose citizenship is of the third category, are discriminated against and isolated even by the students themselves on many occasions.

Migrant children and adolescents are doubly violated because of their status as a minor and because they are migrants. They are treated first as foreigners and then as children. They are different if they arrive with family or alone. Those who arrive alone are more exposed. The information provided to them, including sheltered children, generates sometimes false expectations, and generates frustration and anger, when faced with a situation where they do not have freedom.

Discrimination and racism also occur between peers, among the different nationalities, creating a source of conflict.

Children and adolescents in Rome are a disadvantaged population group and have great difficulty in ensuring their human rights. They suffer from multiple discrimination, for being gypsies, for their language, for their physical appearance and for being immigrants. The media helps to create a false idea of them. Spain has a series of programs, subsidies, and support for projects with third countries, but there is no community immigrant population. They suffer discrimination because they are gypsies. They are worse seen than the same gypsies Parents find it difficult to rent housing, since the owners distrust. The same in the school has difficulties with the coexistence

In general, children do not feel that their opinion are respected; some believe that they are heard, others do not believe it, but if they agree that, their opinion is not taken into account. This is more meaningful in family and school space. In the community spaces and in Town halls they also feel that their voice is not taken into account and are spaces where they would like to participate directly

Children and adolescents are informed on a small scale and from their socialization spaces. Many times they are informed by their peers or through the TIC's. They know that they have rights and that they are many, but they do not necessarily know what or what they are enforceable and where to enforce them and / or how to exercise them. It's thought that they are not always aware, regardless of whether information has been provided and passed on to them. They understand differently, they get the most spontaneous and practical



messages. The lack of understanding of their social behaviour, the non-exercise of their citizenship and the non-optimizing of the scope of their participation, causes lethargy and apathy in this population.

Children and adolescents can develop as agents of change, form and exercise their social role in a democratic society and, therefore, can contribute and improve democracy, through their socialization, coexistence in their different spaces of socialization, learning and experiences.

5.2. Political Rights and Political Participation:

One of the topics on the political agenda is the possibility for adolescents to vote from 16 years of age. For a large majority, the debt of a pending right is considered, just as there are other rights, although not guaranteed; Is seen as positive and for others generates some concern.

It's thought that at the level of political representatives, there is a lack of willingness to generate consultation and participation processes with minors because they are not an electoral population.

In order for citizens to effectively exercise their participation in public decision-making in a free and informed manner, a series of conditions are required that become part of political rights and duties¹⁶.

The CRC, for its part, retakes and claims for the underage people practically have the same rights recognized to the rest of the citizens, with the exception of the rights of "political participation", for the exercise of which establishes an age Minimum that must have been reached. There is talk of "matters affecting the child" is referring both to matters of private order and public order, making people under 18 years of age at "legitimate" political actor whose only legal limitations are those relating to the rights of political participation, and only in the sense in which they are defined in Article 25 of the ICCPR. Since minors are immersed in the same economic, political, social and cultural context as other citizens (in fact, they are generally the population most affected by the decisions taken in these fields), the "issues that affect them" are of any nature and there is no restriction on this in the CRC other than to be "in a position to form one's own judgment."¹⁷

That is not to say that for these reasons, the age of the vote must be lowered, but always processes of consultation, opinion and taking into account their opinion with total seriousness in all the matters that affect them and we would also add on the Issues that interest them.

It is proposed that in a proprietary line to exercise a right that was recognized at the age of 16, it must have gone through closer processes of social action and responsibility, political influence and transformations in their immediate surroundings, family, community, School, municipality, before embarking on a major scenario with major implications. That is why it's considered that we must work in parallel with the progressiveness of the rights and development of children and adolescents, and not give those responsibilities when they are not yet ready to take them.

It is of concern that will be the door to the age-lowering debate in the case of juvenile criminal justice and possible reduction of protection for people who are not yet of legal age.

5.3. In your own culture:

Children and adolescents relate to each other in different ways and are highly characterized by cultural, evolutionary, social context (urban and rural), access to new technologies, mobile, etc.

ICT can be seen as a digital space and an opportunity. It is a space of socialization, learning, creativity, as well as the risks they can pose. They provide a participatory space and the child and adolescent can participate in a differentiated way and with greater control of their processes and is self-managing their own spaces.

The digital space is a public space and private participation. ICTs have become a concern for parents, for the

16 See art. 19, 20, 21, 22, 25 International Covenant on Civil and Political Rights (ICCPR), quoted by Murillo Herrera Virginia, Defense of Children - International, analysis of Civil and Political Rights of Children and Adolescents 2007 and published In Thought and Action Bulletin, 20 years of the Convention on the Rights of the Child, 2009.

17 Idem.



time they spend, for the risks and for not knowing and having less control of what their sons and daughters are doing.

The ICTs has put in greater evidence the enormous gap between intergenerational dialogues and it is not visualized from the children and adolescents as from the adults that the participation between generations is not an opportunity.

Children and adolescents produce their own culture, with others and from themselves, despite the structures and defined roles, they make decisions with autonomy and from their own looks and ideals.

VI.- CONCLUSIONS, CHALLENGES AND RECOMMENDATIONS

Spain has a great opportunity, although it has made progress in implementing Article 12 of the Convention and has in some ways been following - albeit inconclusively, Articles 13 and 15 - lessons learned from all the processes and initiatives that have taken place. Developed, give rise to enormous learning and give the possibility of re-vise, re-think them and redress them in the case that the latter it's considered necessary. Spain can define a country strategy from all stakeholders and entities involved with children and adolescents and set a short, medium and long term goal to generate processes of real participation where children and adolescents living in Spain Are social stakeholders recognized by others and by themselves and who exercise their citizenship with all the conditions that this implies.

Even though Spain is a country in which the extreme situations human rights violations are not present in a general level¹⁸,

The high rates of child poverty are reducing the coverage of basic needs with many other consequences. This requires a greater commitment to children and adolescents.

Some challenges to overcome are identified:

- 1) "Break" with the culture of power in adult-child, child-child and recent adult-child relationships. Likewise, from the structures, policies, programs, methodologies towards children and adolescents
- 2) Overcoming the gap in intergenerational communication, adult-child and child-adult.
- 3) Children and adolescents do not end up recognizing themselves as social actors with equal rights as adults, but neither does the adult world, therefore, fail to exercise real participation with autonomy and responsibility; With the consequence that it is not possible to assume as central part of the exercise of an active citizenship in all the stages of the development of this minority population.
- 4) Absence of measurement and monitoring of the guarantee and exercise of the human rights of children and adolescents and with special emphasis on the rights of participation.

6.1. RECOMMENDATIONS

For decision makers:

- To promote inclusive policies
- A Pact for and with Children and Adolescents in Spain, and that other pacts in Education, Social Services and Health, especially include children, adolescents and young people.
- To promote policies that include the human rights-based approach and participation in a better way and more visible.
- To establish mechanisms for monitoring, and defending those rights and freedoms in equal conditions for children and adolescents regardless where they live.
- Implementation with effective monitoring.
- Harmonization of policies and measures, coordination and generation of channels that include their voice and opinions in all levels (economical, technical, methodological and formative commitments)
- To generate more and greater spaces and bodies of children and adolescents participation , to listening and asking them how and in what they want to participate.

¹⁸ This doesn't mean that they are not there.



- Legislation that reinforces and strengthens the human rights and participation approach and generates an endorsement for its implementation.
- Initiatives of coordination, alliances, and joint strategies that place children and adolescents at the center as well as their participation.
- To design indicators and systems of measurement and monitoring that make it possible to ensure that children and adolescents, without any discrimination, are exercising their human rights and with particular attention to the rights of participation.
- To promote more democratic, inclusive and respectful coexistence processes.
- To generate actions to promote a better and closer and respectful intergenerational communication: to promote a comprehensive communication, with more active listening, more assertive, being key for the development of experiences, initiatives and construction of children and adolescents participation in practice and in reality.
- To promote processes of opinion, listening and real participation of children and adolescents and at all levels and from all stages of development.
- To create the conditions for children and adolescents to exercise political rights and to prepare themselves for an informed, knowledge, conscious political participation.

The entities:

- To promote training actions for the general population and professionals working with children and adolescents regarding the rights of children and adolescents.
- To promote training actions aimed at children with respect to their rights and duties.
- To create training and awareness-raising tools for adults on the benefits of the child and adolescent participation
- A figure of "Watcher of Rights" that monitors human rights compliance by the administration and the exercise of these rights by the children, particularly those who are in conditions of vulnerability.

Families:

- To promote participatory processes with families.
- To promote positive parenting
- To inform parents and / or responsible parents and include them into the processes

Facing the Third Sector:

- To make public, not only formal, recognitions of those bodies (organizations, organizations, associations, etc.) that promote these rights in an active, testable and not merely formal way to fill in reports.
- To generate training processes, information to entities and staff, volunteering in the Third Sector on human rights and in particular attention to participation rights.
- To promote replicable and successful good practices and models that promote the participation of children and adolescents.
- That the processes of participation are binding, that produce changes in the organizations of attention to NNA.

At the local level:

- Recover operating ways. They are the ones that move the social participation of the neighborhoods
- Re-stimulate lines of support, prevention, leisure, cultural and sports.
- Even with the excuse of doing a sport, promoting participation
- To maintain the local work and to review the role of the Adolescent Councils in order to recover their social role and autonomy through more transformative participatory processes.
- To enable the realization of the right to freedom of expression.
- That the participation of children and adolescents be effective and with quality, in the decision making at the district and city level levels, to integrate them as full citizens and to make a qualitative leap in the children's councils to go further of a symbolic participation.



Education:

- Work with public policies that break the inequality gap and build equity, above all by recovering investment in a quality public education system. That is where participation must make a qualitative leap. The schools must be spaces with 100% participation.
- In order to respect the aims of education, focused on the construction of critical and free spirits, a review of the processes of participation and recognition of underage persons as social actors in the family, community, in schools and in society
- To promote autonomy processes in schools, including autonomy of critical thinking. Help them reason.
- To promote real participatory processes at all levels of the school system.
- To enable the exercise of the right to freedom of expression.

At all levels:

- To ensure that participation processes achieve more immediate and tangible effects for children and adolescents
- That the adults give confidence, that does not represent them, that helps them to organize their ideas
- To stop thinking in adult mode
- To incorporate participation as an axis of work, more in the day to day, that allows to evolve to become more a habit and way of doing in any type of institution that works with NNA, than in specific issues or projects.
- To identify those changes proposed by children and adolescents.
- That children and adolescents participate in making their proposals come true.
- That there are more accessible and decision-making spaces.
- To discuss the prevailing concepts of participation and the common north to reach for and with the children and take seriously the human rights of children.
- Be honest with the children from the participatory processes that are driven
- Moving from a symbolic participation to a concrete real participation with concrete experiences.
- To learn from other experiences.
- To increase participation in schools and community spaces.
- Continue to maintain participation at the local level
- Disseminate the results of participatory processes among peers
- Continue to develop training processes in human rights and participation of children
- To avoid that the word participation becomes a decorative thing to avoid that it is only of form and not transforming.

6.2. List of interviews

- 1.- Ana Villa Uriol, Directora Federación de entidades con proyectos y pisos asistidos
- 2.- Antonio Polo Moya, Presidente Grup D'Esplai Blanquerna
- 3.- Catalina Perazzo, Save The Children España
- 4.- Educador Social, Centro de Protección a la Infancia
- 5.- Falo García, Psicólogo, Técnico de Proyecto, Fundación para la atención integral del menor (FAIM)
- 6.- Gabriel González-Bueno, Unicef Comité Español
- 7.- Javier Escartín Sesé, Asesor de Participación, Gobierno de Aragón. Departamento de Ciudadanía y Derechos Sociales.
- 8.- Kepa Paul Larrañaga, Nétologo experto en Derechos de infancia, Presidente GSIA
- 9.- Lourdes Gaitán, Socióloga Investigadora GSIA
- 10.- Maite de Andrés, Directora del Departamento de Inclusión Social de Fundación Secretariado Gitano
- 11.- Maestra Educación Infantil



- 12.- Manuel Calvo, Catedrático, Facultad de Derecho, Universidad de Zaragoza
- 13.- María José Bajén, Jefa de Servicios de Atención a la Infancia y Adolescencia de Aragón (Servicios de Protección y Atención al Conflicto Social).
- 14.- Marta Mallada, Educadora Social, Subdirección Protección a la Infancia, Acogimiento, Instituto Aragonés de Servicios Sociales.
- 15.- Pepa Parqué, Dirección Técnica, Fundación Mercé Fontanilles
- 16.- Teresa Picontó Novales, Profesora Titular de Filosofía del Derecho y Sociología Jurídica, Facultad de Derechos, Universidad de Zaragoza
- 17.- Tomás Gómez de Valenzuela, Servicios Especializados de Protección de Menores, Instituto Aragonés de Servicios Sociales



**THEMATIC REPORT:
Migratory itineraries of children and adolescents in Spain**

Prepared by GSIA (Sociology Group of Childhood and Adolescence)

Technical coordination: GSIA

Research team:

Brey, Elisa

Domínguez Alegría, Gloria

Larrañaga, Kepa Paul

Migues Pouy, Beatriz

General Coordinator: Fernández Nevado, Myriam

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1. - INTRODUCTION

The approach to the complexity of the migration phenomenon needs some prudence in the analysis of a process that is multiple and diverse, involving a variety of actors and in different types of levels and contexts, and when there is a shortage of data for a process, the migratory, with different and heterogeneous routes and phases. Migration process where children are either unnoticed or too visible through the stereotypes that are sometimes accused of stakeholders in this process and spread news media.

When facing a "thematic report" as the one presented, it may be easier to look for responsible or simply alluding to the vulnerability of children and adolescents. Nothing further from the intent of this document. The aim is to develop an analysis of the different contexts and stages through which the migratory process of children in Spain takes place based on the examination of different secondary sources as well as a field work, consisting of semi-structured interviews with experts from the most representative organizations of the third sector, related both to the migratory fact as with the childhood and adolescence in Spain.

Thus, we will point out throughout the various chapters "risk factors" (understood in this study as the identification, through the secondary sources and the interviews maintained, of main risk groups) and "protection factors" (understood in this study as proposals for measures, actions or policies that based on the opinion of the sources consulted could - it is not certain, it is not proven - to improve the situation or to counteract the risk applying in certain contexts). Thus, for this study, risk will refer to a probability (according to multiple factors) of suffer a situation or action. The protection refers to training and the provision of resources or means that an individual or a community can count on to do facing certain situations or experiences. The reason for opting for an analysis of risk or protection factors is due to several reasons: not to pretend that the existence of certain cases in the Spanish State of violations of the rights of immigrant children is in no way generalist, and that this concrete factors to be taken into account for the improvement of the situations to be presented.

We will defend throughout the document the capacity of resilience of immigrant children, and above all because in particular the only factors that favor such resilience are their rights as subjects that are, as referred to in the United Nations Committee on the Rights of the Child.

As a brief indication of the theoretical framework that supports this "thematic report", they are: the sociology of childhood and the paradigm of 'childhood in movement' based on what is indicated by the international organization "Terre des Hommes."

The limited scope of this report, and the choice of a format for reading and appropriation by the United Nations Committee on the Rights of the Child, is the reason for the selection of a specific presentation for this



report based on the identification of factors. In any case, and as this study is based on an ad-hoc field work any gloss or clarification is possible.

2. - IMPLEMENTATION MEASURES

Being the Convention on the Rights of the Child is a current regulation in the Spanish State since 1990, the year of ratification of these international regulations by Spain, it expressly refers to the immigration of children and adolescents and their articles Which directly and indirectly concern the immigration of children, and more particularly their articles: 2, 3, 8, 9, 20, 22, 24, 26, 28, 30, 34 and 35. As well as the general comments of the United Nations Committee on the Rights of the Child.

The reform of the Organic Law 8/2015, dated July 22, and Law 26/2015 includes, in all its measure as a prevailing law in Spain, the updating of substantive and procedural laws in their compliance with the provisions of the Convention On the Rights of the Child.

In response to the Convention on the Rights of the Child: the II PENIA (National Strategic Plan for Children and Adolescents), the III PESI (Plan of Action against the Sexual Exploitation of Children and Adolescents), the PIAF (Comprehensive Support to the Family), such as the Comprehensive Plan against Trafficking in Women and Girls for the purpose of sexual exploitation. Taking into account, in turn, the Strategy for Health Promotion and Prevention in the National Health System, and Organic Law 4/2000, of January 11, on the rights and freedoms of foreigners in Spain and their social integration.

3. - IMMIGRATION ROUTES FOR CHILDREN AND ADOLESCENTS

Migratory routes are multiple and global. They depend on the various types of migratory processes: children traveling alone, family grouping, asylum and shelter, children in the company of their parents, those due to a family project, those due to a project of their own, etc. *"We cannot treat the whole phenomenon in a global way, and with a single model and with a single interpretation, it is not worth it ..."* (Sociologist of children, national organization of the third sector).

Children also learn and transmit the ways of carrying out these routes, especially when they are migratory processes with a personal project, including those of children traveling alone but in network with other children. In the case of Spain, the most common access routes to Ceuta and Melilla for this type of irregular immigration.

Risk Factor 1: Have to opt for an irregular migration process by making legal migration routes less practicable. *"When you leave no path of legal migration, you are conditioning, you are producing death ..."* (Sociologist, Spanish University).

A proper migration process is verified in certain expectations that the girl or the child, or their family, intends



in the destination country. Expectations that correspond to social mobility, employment, access to goods and services, or a pre-constituted image of an idealized type of life. Migration routes pass from the countries of origin to the countries of destination, but they cover the diversity of experiences that are part of the migratory process of the child. In the opinion of the experts consulted, investment in international cooperation and co-development in the countries of origin seems to be fundamental, but *"is one of the elements that has characterized this period, the significant reduction that has Funds for international cooperation that in the end is the best prevention for irregular immigration"* (Anthropologist, international organization of the third sector).

PROTECTION factor 1: Increase investment in international cooperation and co-development in countries of origin of immigration, especially irregular.

With regard to irregular immigration, the lack of data on the trafficking of girls for the purpose of sexual exploitation in Spain is particularly worrying, preventing their identification and monitoring. There is a lack of comprehensive care for children who are direct or indirect victims of trafficking in spite of *"the great effort at the public level and of different organizations to put this issue on the political and social agenda. We now have in Spain a National Anti-Trafficking Plan, a framework protocol for victims of trafficking for the purpose of sexual exploitation, and the allocation of economic and human resources"*, as Castaño and Pérez (2017) point out. There is a lack of follow-up and identification of the cases that are grounds for abandonment and disappearance in the case of girls from even the same protection centers where they are protected by the regional administration: *"[...] Being a time in a protection center but it is already up to them to move, move or get to work, to be exploited, or so forth"* (Sociologist, Spanish University).

Risk Factor 2: the lack of identification of trafficked children, such as the lack of data on these victims. Thus, *"and what should be done, and now the new childhood legislation allows, is to declare these children at risk [...] instead of separating the children, as they are doing now, They remove the child from the mother and declare him in despair,"* (Jurist II, international organization of the third sector).

Factor of PROTECTION 2: an adequate policy of derivation between protection centers of different Autonomous Communities.

The policy of family reunification attends to the right to live with the family and is and has been one of the main routes of entry for children in Spain. Although the *"Principle of Universality of the Right to Live in the Family"* is restricted both by legislation at European level and by legislation at the level of the Spanish State because categories are established and doctrines are established, which has to do with Asylum regime versus that of foreigners who are two different regimes in relation to the union of the family" (Jurist I, international organization of the third sector).



Risk Factor 3: the existence of a closed list of regroupable persons that restricts the right to live with the regroupables, as well as the economic conditions required in the regime of alienation for family reunification.

Factor of PROTECTION 3: the necessity to correctly and surely appreciate affective bonds in addition to blood. Thus, *"the concept of family reunification would be facilitated or understood in a much broader sense. In particular, in the case of African children where the concept of family is not as biological as the one we handle in Europe, But rather it is done more by cultural or village links or proximity"* (Jurist III, Federation of organizations of the third sector).

A separate mention must be made regarding the difficulties encountered by children traveling unaccompanied by an adult with regard to the family reunification policy due to the lack of sufficient guarantees on the part of the Public Administration, as well as in relation to with the different grounds for requesting asylum and refuge for children (although it is a lower rate of immigration in Spain) and in relation to the accumulation of files in the Asylum Office and the delay in its resolution: *"we are seeing that the delay in all the asylum files slows down the one that you can put the regrouping in operation, because you only have right once you are recognized the refugee status"* (Jurist II, international organization of the third sector)

Factor of PROTECTION 4: the acceleration of the bureaucratic procedures of the State Administration for the regrouping and the relocation of children.

In the last period, the family reunification in Spain of children has declined because of the crisis, the low labour expectations and the incentive of the return policy to the country of origin in the measure and the consideration of being a regularized entry way to Spain.

Factor of PROTECTION 5: the greater regularization of legal entry routes to Spain of immigrant children. *"if there were other forms, that is to say, if Spain facilitated, for example, arrival through student visas, since many of these children could surely have a better life or facilitate visa policies Much broader and much more generous"* (Jurist III, Federation of organizations of the third sector).

It is necessary to differentiate, in turn, between two other access routes of children immigrants to Spain: the community and the non-EU. Particular mention is made of the situation of minority groups such as Roma or Roma children of Community origin. Thus, these and these community citizens should be guaranteed rights but can be disadvantaged because *"in Spain there are a series of programs, subsidies, and support projects to develop actions with immigrant population of Third countries but there is no one for the community immigrant population"* (Psychologist, national organization of the third sector).

RISK factor 4: less incentive of public policies and actions with minority groups of community origin.



4. - PHASES OF THE MIGRATORY PROCESS IN CHILDREN AND ADOLESCENTS

Immigrant children and adolescents go through their migration process through different phases, which compose different contexts to be analyzed. Specifically, two are analyzed for this study, taking into account the situation of irregular immigration.

4.1. - THE SITUATION AT THE BORDER

The border means for the immigrant boy and girl the loss of their story, their origin and status as a citizen in their place of origin. The experience that the child carries is no longer significant; the documents that can carry the child become dubious. In this border environment where the Aliens Act prevails in front of the Child Protection Act, the Childhood and Adolescence Act begins to suffer a greater risk of discrimination based on its administrative situation. *"The first violation is this: not consider them as children but consider them migrants and give priority to migratory interest on the best interests of the child"* (Jurist II, international organization of the third sector). The attention to the children is oriented to their condition of migrants that by the fact of being children, question denounced by the organizations that work in the border of Ceuta and Melilla.

RISK Factor 5: make the Spanish Immigrant Law prevail over the Protection of Children and Adolescents Act, and thus to the detriment of the applicability of the Higher Interest of the Child.

Particular attention is paid to the type of institutional response given to the child and in relation to the migratory event, since there is no verification of his age through an adequate procedure on the documentation that the child carries by the institutional operators. In addition, taking into account *"his condition as a child, but also the impact of migration on his life"* (Anthropologist, international organization of the third sector).

In the same way, the process of verification of the age generates determinant risk factors for the boy and the girl. *"Age testing is used systematically and many children are placed in a street situation"* (Jurist II, international organization of the third sector). The physical tests applied in Spain for the determination of the age are considered unreliable, because in essence they contrast protocols and techniques against the application of measures that contemplate the Human Rights.

Factor of Protection 6: to be provided with intercultural mediators and translators, and with an immediate reception process in centers where the participation of immigrant children is encouraged.

RISK Factor 6: questioning the documentation of the immigrant child.

RISK FACTOR 7: continue to use physical tests to determine the age of immigrant adolescents without taking into account other dimensions that have to do with psychosocial, ethnic, and cultural aspects, and which may



condemn adolescents to a situation of Street.

It is necessary to consider that the imprecision in the tests of determination of the age causes that the adolescents are interned in Centers of Internment for Foreigners, situation that is forbidden by Law, as indicated in the article 62 of the Organic Law 4 / 2000, dated 11 January, on the rights and freedoms of foreigners in Spain and their social integration, which states: "The entry of minors in detention centers may not be agreed upon, without prejudice to the provisions of article 62 bus 1. l) of this Law. Unaccompanied foreign minors who are in Spain will be placed at the disposal of public entities for the protection of minors as established by the Organic Law for the Legal Protection of Minors and in accordance with the rules set forth in article 35 of this law." As well as the expulsion, in hot when it prevails its condition of foreigner against the fact of being adolescent. In any case, in relation to the expulsion and in the words of Martínez Escamilla (2016): "the immigration law expressly mentions some specific causes in which the expulsion should not be executed: in the case of pregnant women, when expulsion (Article 57.6 LOEx), when the foreigner is in charge of children under school until the end of the academic year (article 246.2 LOEx). Children should be prevented from inheriting the irregular status of their parents.

Risk Factor 8: The impulsive expulsion at the border of adolescents without a correct verification of their age.

RISK factor 9: the internment of adolescents in Internment Centers for Foreigners without a correct verification of their age.

4.2. - THE SITUATION IN THE PROTECTION CENTERS

Depending on an effective determination of the age of the adolescent or the fact of being a child or adolescent the immigrant, this or this one will be supervised by the organ of the corresponding Autonomic Administration. The stage of guardianship of the Administration supposes another context to analyze.

Residential care is found by a Public Administration that is based on the right to protection of the child. But, "*the system has not generated a model with intercultural parameters that could obey attentions that take into account the needs and expectations that bring these kids*" (Anthropologist, international organization of the third sector), creating a gap between The expectations of the Administration regarding the guardianship of these children, and the expectations of these and these: "*there was a moment when it was said 'these children do not come to this' ... these children do not come To be in school, to have the heat ... these children come to work and earn money to establish themselves and / or send them to their families*" (Sociologist of the childhood, national organization of the third sector).

Factor of PROTECTION 7: the active listening of the migratory story of girls and boys protected in the Protection Centers.



Factor of PROTECTION 8: assimilate that there are immigrant children who come to Spain with their own immigration project.

Factor of PROTECTION 9: development of a quality model in the Protection Centers based on quality standards and taking into account the needs of the children.

In this way, it will also have to take into account the specialization of professionals working with children both in the context of the border and in the context of Protection Centers. Thus, *"there is a lack of specialization, a much better understanding of what the right to a child means in all related policies, in all the institutions and stakeholders that have to do with children in the [...] Context of migration, we are talking about borders, we are talking about refugee centers, we are talking about protection centers"* (Jurist I, international organization of the third sector). And assuming working methodologies based on the rights approach.

Factor of PROTECTION 10: specialization of the juridical operators and in particular of the prosecutors of the room of minors increasing the number of prosecutors with specific training around the rights of children and in necessities related to the migratory fact.

5. - THE TIMES OF IMMIGRATION FOR CHILDREN AND ADOLESCENTS: A MULTIPLICITY OF MIGRATORY ITINERARIES

The Administration is very aware of the procedure, it is very guaranteeing, but it is accused a lack of follow-up of the concrete cases as of the coordination of policies between the different Administrations in Spain. "The standard of protection has to be much more harmonized, you know that they are autonomic competences but the levels of protection must have certain similarities regardless of where you are in Spain" (Jurist I, international organization of the third sector). These differences between administrations generate different ways of living migratory itineraries in Spain depending on where the child is

PROTECTION Factor 11: policy coordination between the different Public Administrations in Spain.

PROTECTION Factor 12: Perform a process of monitoring, monitoring and traceability of the child with the aim of being able to analyze on a data basis the processes under study.

Indeed, some consequences of the lack of monitoring and follow-up may be: the loss of the residence card at the age of 18 leading the adolescent to exclusion or return. Thus, the residence card is essential for the integration process of the immigrant, such as the loss of the health card in case of not being enrolled the adolescent.

RISK FACTOR 10: because of a lack of follow-up, not be registered with the subsequent loss of the health card.

RISK FACTOR 11: because of a lack of follow-up, a loss of the residence card.

Thus, *"[...] accompanying this itinerary to full integration of these people in Spain"* (Jurist I, international



organization of the third sector) is a factor of non-discrimination. Although the social discrimination of immigrant children may be related, in turn, to a lack of social mobility, non-employability, lack of a support network, affecting the success trajectories of the sons and daughters of foreigners, and their possible social exclusion. Multiple itineraries of immigrant adolescents and young people due to circumstantial situations that could have had an easy solution if the competent authority, in this case the guardianship, had successfully passed the residence card before the age of 18.

RISK factor 12: not being able to get a job for not having the residence card.

Risk Factor 13: to be in a situation of social exclusion for lack of a support network.

The situation of economic crisis has particularly affected the population of immigrant origin. Crisis that has resulted in cuts in the educational system, and specifically in the classrooms link. Liaison classrooms that mitigate the lack of knowledge of the Spanish language by immigrant children during a prudential time until passing to formal education. Taking into account that linking classrooms can be discriminatory for two reasons: to become something definitive or to extend the period of stay in that liaison classroom more time [...] than "and limit other goals which is the relationship with their peers and partner "(Psychologist, national organization of the third sector). As the lack of listening to the needs of immigrant children: "[...] that an educational itinerary cannot be generated without listening to the child, regardless of their motivations or needs" (Jurist I, Third sector international organization).

Factor of PROTECTION 13: that the immigrant child carries out some formal educational itineraries.

6.- CONCLUSIONS AND RECOMMENDATIONS

To conclude, the complete list of risk and protection factors identified after the analysis in the previous chapters is indicated:

Table 1: "risk factors"

Nº	Risk Factors
1	Having to opt for an irregular migration process by making legal migration routes less practicable
2	The lack of identification of trafficked children, such as the absence of data on these victims
3	The existence of a closed list of regroupable persons that restricts the right to live with the regroupables, as well as the economic conditions required in the regime of alienation for family reunification
4	The minimum incentive of public policies and actions with minority groups of community origin (European Community)
5	Prevailing the Law on Foreigners in Spain on the Law on Protection of Children and



	Adolescents, and therefore to the detriment of the applicability of the Higher Interest of the Child
6	Questioning the documentation of the immigrant child
7	Continue to use physical tests to determine the age of immigrant adolescents without taking into account other dimensions that have to do with psychosocial, ethnic, and cultural, and which may condemn the adolescent to a street situation
8	The impulsive expulsion at the border of Ceuta and Melilla
9	El internamiento de adolescentes en Centros de Internamiento para Extranjeros
10	Because of a lack of follow-up, it is not registered with the subsequent loss of the health card
11	Due to a lack of follow-up a loss of the residence card
12	Not being able to get a job for not having the residence card
13	Being in a situation of social exclusion due to lack of a support network

Table 2: "protection factors"

Nº	PROTECTION FACTORS
1	Increase investment in international cooperation and co-development in countries of origin of immigration, especially irregular
2	An adequate policy of referral between protection centers of different Autonomous Communities for girls victims of trafficking
3	The need to correctly and surely appreciate affective bonds in addition to blood
4	The acceleration of the bureaucratic procedures of the State Administration for the regrouping and relocation of children
5	The greater regularization of legal entry routes to Spain for immigrant children
6	To be endowed with intercultural mediators and translators, and with an immediate reception process in centers where the participation of immigrant children is encouraged
7	Active listening of the migratory narrative of children protected in the Protection Centers
8	Assimilate that there are immigrant children who come to Spain with their own immigration project
9	Development of a quality model in the Protection Centers based on quality standards and taking into account the needs of the children
10	Specialization of the juridical operators and in particular of the prosecutors of the room of minors increasing the number of prosecutors with specific training around the rights of children and in necessities related to the migratory fact
11	Coordination of policies between the different Public Administrations in Spain
12	To carry out a process of follow-up, monitoring and traceability of the immigrant child with the objective of being able to analyze on a data basis the processes under study



13	Ensure that the immigrant child carries out formal educational itineraries
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All of the above factors are necessary challenges, which would represent an ostensible improvement of the conditions and contexts in which the migratory process of children and adolescents in Spain takes place. These challenges are concrete recommendations as to the policies and measures that the Spanish State can make available and verify at all levels of the Public Administration and for all operators who act in the migration process and in its territory.

It must be taken into account that the development and application of these measures and challenges affect the vulnerability of all and all immigrants who enter Spain, whether children or adults, for which we consider that application is essential. And always taking into account that children have as essential factor to favor their resilience, and overcome the difficulties and problems they experience, the effective implementation of their rights, and in this case the rights stipulated in the Convention on the Rights of the Child , Ratified by Spain in 1990. Thus, the challenges and problems for the immigrant population, both regular and irregular, may be persistent, a persistence that will be addressed by having adequate mechanisms and measures to deal with them, and thus allowing for resilience Who for different reasons decide, want, must or simply flee from situations and territories in conflict. Our best recommendation, given the analysis made, is, in due time, make effective the solution to the risk factors identified as establishing the measures and policies in line with the protection factors stated. In the face of vulnerability, and in almost all cases, it only serves the endowment of capacities and resources, and the effective implementation of the rights that mitigate, and for the most part dependent on the General State Budget.



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List of interviews:

- *Asociación Paideia*
- *Caritas*
- Red Cross
- Foundation Secretariat Gitano
- Sociology Group of Children and Adolescents
- *Red Acoge*
- Save The Children
- SOS Racism
- Unicef
- University of Granada

The opinions expressed are those of the authors of the alternative report. These opinions do not necessarily reflect the official view of the institutions to which the persons interviewed as experts belong.