

## SUMMARY

This report has been written by DEI-France, with the help and support of other organizations of parents and professionals working for children in different fields,<sup>1</sup> so as to provide the Committee on the Rights of the Child of the United Nations with an **alternative vision** to the French government's official report, handed in September, 2007. Within this report, we analyse **the way in which France has continued to implement its State-party obligations with regards to the Convention on the Rights of the Child** (referred to as "the Convention" from here-on-in) since its last examination by the Committee in 2004, therefore **covering a four-year period**. Thus this report is a contribution—planned for in the Convention itself—for the examination of France's case by the Committee expected in June, 2009.

The report gives a **holistic approach of all the rights** of the child, as intended by the Convention, and is organized according to the Committee guidelines on the content of state periodic reports. It expresses a **critical point of view on the actual situation of all children's rights** in Metropolitan France<sup>2</sup>—and does not simply provide an analysis of the legislation applied to them as the official report has mostly done. This report does not content itself with denouncing the lack or violation of rights; it remains rather constructive by suggesting recommendations likely to allow a progression towards a better respect of the children's rights detailed in the Convention.

According to the analysis made, while it is true that the situation of the approximately 15 million children in our country is generally quite enviable, **France still has a lot of progress to make compared to other developed countries**. We need only quote the following statistic: two million children, according to European criteria, live under the poverty line. Even worse, **the previous dynamic in the progression of children's rights seems to have stopped** and rights are now frequently blamed for having stripped parents of their responsibilities or of having prevented teachers from doing their jobs. Basically, children's rights are pointed out as responsible for a part of society's current problems. Quite to the contrary, we believe **it is time to truly think about a global policy, complete and coherent, based on children's rights**.

First and foremost, the French State has to **set up the Convention's general measures of implementation** which are necessary to establish a true children's rights strategy, something which has never been truly thought of or organized in this country. We underline here ( Part I):

- The full implementation of **the Convention's legal supremacy over national laws** (of all its articles), according to Article 55 of the Constitution.
- Strong efforts in **circulating the Convention to everyone**, from parents to political decision-makers. **The training of all professionals** dealing with children, starting with teachers and professionals dealing in justice.
- **The implementation, orchestrated by an important children's minister or by an interdepartmental delegation attached to the prime minister**, of a perennial global children's policy, based on the needs and best interests of children, as DEI-France has suggested in its document « **Pour une loi d'orientation pour promouvoir le bien-être des**

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<sup>2</sup> Here lies one of the alternative reports limitations as we were not able to report on the situation of children in the overseas communities. We however do not forget that there are serious violations of children's rights observed in those territories, some of which have been touched on in the present report.

**enfants** » (ref 34). It should define the common references guaranteeing children an equal enforcement of their rights in all regions when the central government has delegated certain competencies to the territorial departments.

- A means to **follow, thanks to certain indicators, the progress of the implementation** of this policy, and a way to **strengthen the means of control**. This must begin with the true independence and adapted financial means for national institutions defending human rights (Défenseure des enfants, Commission Nationale Consultative des Droits de l'Homme, Haute Autorité de Lutte contre les Discriminations et pour l'Égalité and the new Contrôleur général des lieux de privation de liberté).

In the spirit of the Convention, France must fully and wholly recognize the child's status and must **guarantee the rights of all human beings aged 0 to 18** under French jurisdiction and do so without discrimination, be they poor, foreign, delinquents or disabled and this no matter their parents' situation. Progresses have been made concerning disabled children (Part VI of the present report), and a lot is expected from certain measures such as the *Revenu de Solidarité Active*, which are to be implemented to fight poverty (Part VI). However, **a certain number of existing and soon-to-exist policies are extremely disturbing, especially the immigration policy and the orientations accepted concerning children's justice**, which tend to stigmatize and discriminate against targeted populations. These unfortunately concern particularly vulnerable groups of children, (Part VIII of this report).

Thus, we will remember:

- The State, in collaboration with the Departments, has to implement **a coherent national policy on reception and protection of separated foreign children**. It must refrain from sending back or detaining children in waiting zones, provide the necessary secured care and psychological help, guarantee legal representation in all cases (ad hoc administrator followed by a legal guardian), allow them to build their professional future and offer them possibilities once they have reached their majority, be it a safe return to their country of origin if such is in conformity with their best interests or, otherwise, integration into the French society.
- The State must **review the hardening of the family reunification policy for migrants** which leads children to enter the country illegally and to be exposed to being deported when they turn 18 even though the rest of their family lives in France.
- During decisions made concerning their, or one of their, foreign parents in an illegal situation, the State must **take into primary consideration the best interests of children**, notably concerning their rights to live with their families, to not be subject to violence and to follow normal schooling., The State must refrain from arresting, detaining and expulsing their parents (or of their whole family) at all costs.
- **The current orientations in terms of minors' penal justice must be greatly modified**. The financial resources regarding educational measures have to be prioritized so that they may be implemented without delay (rather than waiting several months as is the case today). The incitement—or even the imposition on judges, concerning minimum prison penalties—to hand out more and more coercive sentences, which are used for children at an increasingly younger age, and more specifically freedom deprivation sentences, must be reviewed. The deprivation of freedom has never been a means of educating or of favouring integration into society. Furthermore, teenagers in conflict with the law are not yet adults: recidivism is a characteristic of their delinquency; they must be tried by specialized jurisdictions and/or procedures and the "extenuation circumstance of âge", in accordance with the principle of mitigated criminal responsibility, has to be legally re-established for all minors, no matter their age. Most importantly, the **prevention of their entry into delinquency** depends

essentially on the improvement of the socio-economic conditions in which children live and on the future prospects that society has the ability to offer them. This also comes by teaching children about the law and human and children rights standards from an early age at school.

Obviously, in the present report, we cannot ignore the fate of children, victims of ill-treatment (Part V). **The law of March 5, 2007, relative to the reform on the protection of children at risk or in danger, has resulted in some progresses:** clarification concerning the responsibilities shared between justice and administrative protection, the nomination of a leader (the president of the General Council, the executive authority of each Department) and a better monitoring of children in danger or at risk. It has, however, not improved their protection vis-à-vis institutional ill-treatment as it focuses exclusively on ill-treatment in a family context—which is indeed much more frequent. Even more troubling is that this law is in conflict with another law, voted on the same day, which gives the mayor the competencies in terms of the prevention of delinquency allowing him to solicit the help of social workers to gather information on certain families judged to be "at risk," which is contrary to the principle of professional confidentiality and which presents a risk of a pre-emptive stigmatization of these families. **It is therefore not clear as to whether the protection of children in danger has truly escaped from being exploited in a function of delinquency prevention.** This situation must be clarified in the interest of the families and also of the social workers who accompany these.

This report mostly underlines (Part VII) the **worrying tendencies with regards to education.** In this case, it does not only concern vulnerable children—a couple of thousand separated minors or children in conflict with the law and some 450 000 children provided with educational or financial assistance by the *Aide Sociale à l'Enfance*—but rather **the totality of the 15 million children present in France.** We noticed a certain failure in the democratisation of the schooling system, which, while having succeeded in integrating almost all students since the 1980's, proved to widen the social inequalities instead of diminishing them and not to provide everyone with a chance to succeed. It also fails to give, through mandatory schooling, the necessary baggage all citizens must have and to learn how we must all live together. **The positive measures adopted for a select few children in blighted neighbourhoods do not ensure a true equality in the right to education.** It seems a reform of the whole schooling system would be necessary: from the reception of young children before mandatory schooling begins, while taking into consideration their specific needs, all the way to the level of university education, while also ensuring a process of educational and professional orientation. The previous must be done based on a republican educational system, with methods that favour the active participation of children in their schooling, leading each of them to emancipation and giving them the necessary baggage for their fulfillment in all sections and for their integration into society based on solidarity rather than on competition. Moreover, due to the effect of intended budgetary reductions, **current drifts are occurring towards the separation of education between formal education (minimal) at school and non formal education in educational structures or extracurricular recreation, which contribute some more to the inequality** between children based on the social environments and financial income of their parents. This present report pulls the signal alarm on this particular subject.

These are major challenges but, **an essential precondition would be to finally revolutionize the mentalities as would suggest the Convention: that all adults see within children, from the age of 0 to 18, a person:**

- not only worthy of being listened to from a young age but eager to learn to new things, capable of expressing himself, by using his own means of expression, his point of view based

on what he is experiencing, whose outlook is complementary to that of adults and who can therefore provide solutions to solve existing problems;

- who needs—including, if not especially, during adolescence—adult accompaniment so as to protect him until his full emancipation.

One cannot want to split children— human beings aged 0-18 as the Convention defines it—into two age groups as some tendencies observed in France would have it: young children, vulnerable and potential victims which should be protected, and teenagers, with an increasingly “imposing” physique, considered as problems and sources of delinquency, which should be assimilated to adults, especially when it comes to sanctioning their behaviour.

It is time for society's view of adolescents to radically change—that is to say that the politicians, relayed by the media, must stop presenting youth as a source of problems, must stop legislating based on emotion and without coherence in reaction to events or malfunctionings observed here and there. Quite to the contrary, **they must grant their trust to children and to young people, set up a coherent global policy for children with the children so as to build a united world which today's youth will be able to pass on to their own children in the future.**

Despite the progresses recorded in certain areas, **the harmful orientations underlined in this report have led our country to come up against a brick wall** in the last years which prevent us from progressing towards a better state of child welfare as well as that of society. This wall is named silence, indifference, fear, segregation, confinement, resignation. We must clearly get over, get around or pull down this wall and adopt new approaches, find different strategies to give children the best of what we have and to leave them with a heritage of a world further united.

This is not a responsibility that falls solely on the public powers. If the present report often seems on charge for the government - which holds the responsibility of going through with the engagements made on the French State's behalf towards the international community by ratifying the Convention, we do not forget that we all hold - especially those defending children's rights, such as we - a certain amount of responsibility. **We are also at the foot of this wall.** It is up to us to take up a position, to promote practices meeting children's rights standards and to better defend the positions we have taken until now. Out of respect for children.

The assessment suggested in this report leads us to already formulate, in its conclusion, 20 general recommendations for the next five years.

**More than ever, we must convince everyone in France that the Convention, through its appreciation of children in their civil, economic, social, cultural and political rights, traces a real project for society, which allows not only parents to get something out of it but also to reassure society. France is one of those countries, more than others, that have the means to take on this political bet. The rights attributed to children and which are made to directly benefit children are not to be considered dangerous but rather a chance/an opportunity for our societies.**