

NGO Group for the Convention on the Rights of the Child  
**Database of NGO Reports presented to the UN Committee on  
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ELZBIETA CZYZ

The Convention on the Rights of the Child has been in force in Poland for three years now. Before the ratification of the Convention the conference has been held in Parliament. The group of lawyers decided that Polish law is basically compatible with the principles of the Convention, so there are no obstacles on the way to the ratification.

Practitioners - psychologists, educators don't quite agree with this point of view. It's true that the basic principles such as rules of the best interest of the child, of respect for the rights of parents, of non-interfering with family relations except when life or health is threatened, or the rule of non-discrimination are both basic principles of the Convention and the Polish family law. I assume it's also true about other countries.

But general rules don't make yet the law.

After closer analysis of existing law regulations bearing in mind their practical application and comparing it with the provisions of the Convention we have noticed that there are a few of issues in need of regulation, of supplement or improving existing practice.

We concentrated to a great extent on the personal/civil/ rights and freedoms of the child. Firstly because it is the most valuable part of the Conv. and still the most controversial one. Generally adults don't question children's rights to care and protection. Talking about personal rights and freedoms of the child still raises protest, in a different social and political environment. It was expressed while ratifying the Convention in the declaration ... "the child performing his/her rights, especially those included in articles 12-16, should also respect parental authority according to Polish customs and traditions...". Of course should be, especially good tradition, but Polish tradition also means total subjection of the child to his/her parents, and physical punishment / very popular sentence is: without beating is not possible good bring up the child, or children and fishes have no voice/.

It is another reason that we concentrated on civil rights and freedoms of the child. Implementation of this rights doesn't require financial costs as it is in a case social rights. The only thing that is needed is proper education and good domestic law regulations.

I only signalize same important problems needed new solutions

- rights to preserve identity
- rights to express will and make decisions in personal matters according to age
- right to life without any form of abuse and neglect
- right to have access to information
- right to contact with both parents / important in a case of divorce/

By the example I say something about problem with identity, about express will and make a decision in personal matters of the child and about the right to live without any forms of abuse and neglect.

#### RIGHT TO PRESERVE IDENTITY AND EXPRESS VIEWS

At the Convention there are art.8 /identity/ and 12 /express views/Polish civil law in art.15 of Civil code gives the child, over 13 years old /we call it -"limited ability to legal activity", but from the practical point of view is unimportant because it means for example that child have right to buy the book and this transaction buying -selling is important by law.

The 13-years old child is asked to give a permission for adoption and for a change of his/her surname, but in practice only much younger children are adopted.

We think that art.15 of Civil code should be compare to art.12 of the Conv. Its very important in many cases of children matters in a court, for example: adoption, parental authority and place of life after divorce and many others.

In Poland the principle of secrecy of adoption has remained in force /Poland has made reservations to art.7 of the conv./. So according to law children under 13 may never learn about their origin, siblings, name and so. It is said to be in the best interest of the child. In our opinion institution of secret adoption protects the interest of adults. Existing regulations let - in case of full adoption - write new birth certificate, where adoptive parents are entered as natural. Old birth certificate cannot be disclosed., even child grown up.

We propose to change regulation concerning registry certification so that every person over 18 could have access to all his or her documents. We think that adoptive parents warned about such possibility more often will make decision of telling the truth in order to protect the child from the shock he or she may experience at the age of 18.

#### RIGHT TO LIVE WITHOUT ANY FORM OF ABUSE AND NEGLECT

/art. 19 of the Conv/.

Polish family code permit using corporal punishment as long as physical and mental health of the child is not threatened. Art.184 of Penal code provide from 6-months to 5y. of imprisonment for the maltreatment of the family. Last years we have approx. about 12 000 cases of maltreatment but to this time we don't know exactly how many children are abused because

statistics doesn't exist. But it change after meeting member of the Committee and Ministry of justice. From 1995 be prepare statistics about child maltreatment.

We have also proposition to adding to art.95 of Family code which states that "children should be obedient to their parents" the following supplement: "while enforcing obedience parents should not use any form of violence, particularly physical".

It has value of moral not penal obligation, still it can influence adults way of thinking about punishing the child. It seems particularly important in Poland where stereotype of punishing with belt or rod is strongly rooted in our cultural tradition. Social awareness has been changing slowly and with difficulty in Polish patriarchal and Catholic society.

Project of charter of rights and freedoms on which the parliament of the former term debated evoked intensive emotion among member of parliament. Clause concerning rights of the child including right to protection from cruelty and humiliating treatment provoked a discussion on using corporal punishment. We heard the voices that corporal punishment is essential part of education.

Some adults still afraid that children don't know how to make use of rights belonging to them. That's true and this is the reason why we should teach children how to use the rights, not to restrict those rights.

It's difficult to imagine creating responsible citizen of democratic state without teaching him how to use the rights he is entitled to.

At the end I have to add some optimistic words. We have a lot of work, we have to correct our domestic law, our child care system but we really start to do it, very slowly start.

Now, I can say we talk about children's rights much serious and much more often than before ratification the Convention.

Consciousness of society start to change. Much more people want to listen and understand what the children rights really means.

In my opinion, it'll be good if Polish government will decide to withdraw declaration from the Convention. In practice it has no great influence but from moral and political point of view is very important.

Some basic statistical information

- \* Poland has about 38 million of citizens
- \* approx. 12 million children under 18
- \* 180 thousand of children is over control of the Family court
- \* about 10% of school children stay in alcohol abuse family
- \* about 2 % of children are maladaptive children
- \* about 20% families/with children/ have more than two children and many of them are poor
- 3,5 mil. of children lives in such a families
- \* 2,2 mil. of children are bringing up in different care institutions /residential homes, educational centre and s.o./ out of natural family
- \* last year about 3 thousand of children was adopted, 480 abroad in it.

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