

Spain improves the protection of children and adolescents against violence

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FRANCISCO JAVIER MORENO-FUENTES AND GREGORIO RODRÍGUEZ-CABRERO – EUROPEAN SOCIAL POLICY NETWORK

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On 20 May 2021, the Spanish Parliament approved, by a large majority, a law that provides an integrated framework for the protection of children and adolescents against all forms of violence. This new regulation is an important step forward which aims at promoting a shift in attitudes in Spain with regard to the protection of children and adolescents.



Description

On 20 May 2021, the Spanish Parliament approved, by a large majority, the Law on the Comprehensive Protection of Children and Adolescents from Violence (Boletín Oficial del Estado 2021). This Law incorporates all previous legislative provisions to combat violence against children and adolescents and consolidates their rights as well as the State's commitment to protect them. It includes measures aimed at preventing, detecting and repairing the damage caused by violence against children and adolescents, while increasing societal awareness of this issue. Its main characteristics are:

- A broad definition of the concept of violence against children and adolescents, including physical, psychological and emotional abuse, physical, humiliating or degrading punishment, neglect or negligent treatment, threats, insults and slander, exploitation, including sexual violence, corruption, child pornography, prostitution, bullying, sexual harassment, cyberbullying, gender-based violence, genital mutilation, trafficking in human beings for any purpose, forced marriage, child marriage, unsolicited access to pornography, sexual extortion, public dissemination of private data as well as the presence of any violent behaviour in the family environment.
- A strict guarantee of the rights of children and adolescents. These rights relate to children's right to be heard with no age limit and with all the necessary guarantees (Article 11), as well as their entitlement to freely defend their own

interests. The concept of the child victim of violence as an active member of society is an essential element of this new regulation. The period for the legal prescription of cases of sexual abuse against minors and adolescents is increased significantly (the prescription period starts when the victim turns 35 instead of 18 before), and measures are introduced to prevent the re-victimisation of child victims.

- The obligation to report all situations of violence against minors (Article 15), which is pending future regulation defining more precisely the extent of that imperative obligation.
- A strengthened cooperation between all levels of the State administration through the creation of the Children and Adolescents Conference (Article 7), bringing together the Central Government and the Autonomous Communities. Collaboration between public administrations, the private sector and civil society organisations is praised (Article 8), and is to be promoted through the drafting of a National Strategy for the eradication of violence against children and adolescents (Article 21) establishing actions, awareness campaigns, plans, and prevention and early detection programmes.
- A key role for families, which are considered to be the key unit of society, and the importance of promoting "positive parenting", i.e. an approach that is sensitive to children's individual needs (Chapter III). As well as initiatives to prevent and control violence within the home, measures will be taken in educational settings, including the definition of protocols in schools, and the establishment of the figure of

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Coordinator of Wellbeing and Protection in educational centres (Chapter IV). In the area of health, a Commission for the prevention of violence against children and adolescents is to be created (Chapter V). Prevention and early detection will also be considered in the sphere of sports and leisure. The Law defines the Social Services as “agents of authority” responsible for activities, detection plans, assessment, intervention and management of cases of violence against minors, while police forces are defined as key actors providing support to public services in this domain.

The new Law regulates the safe and responsible use of the internet by minors, by the assessment and monitoring of network content, especially content that promotes violence against children and violations of children's rights.

Finally, the law establishes a Central Information Registry on Violence against children and adolescents. No person working with minors in either the public or private sectors, as a salaried worker or as a volunteer, can have any record of violence against children or adolescents.

Outlook and commentary

According to Save the Children (2020) a quarter of all minors younger than 17 have suffered violence within their households in Spain, and every three hours a case of sexual abuse of a minor is reported. This is only the visible tip of the iceberg that reaches the legal system; this Law aims to disclose all those unreported events that go unnoticed.

The new Law seeks to bring about a cultural or paradigm shift in societal views and in the institutional treatment of violence against minors. This is a societal commitment that builds on and reinforces action taken at all levels of government in Spain.

It constitutes significant progress with respect to the previous Law 1/1996 on the legal protection of minors, and fully incorporates Directive 2011/93/EU on combating the sexual abuse and exploitation of children and child pornography. It builds upon Article 3 of the Lisbon Treaty, the Convention on the Rights of the Child (UN, 1989), and the United Nations' 2030 Agenda for Sustainable Development.

The Law is also aligned with the State Pact against Gender Violence, a document of political commitment aimed at “Putting an end to ill-treatment, exploitation, trafficking and all forms of violence and torture against children”, including violence within the home, paying special attention to cases of violence against children with disabilities (Government of Spain, 2018).

The philosophy underlying this regulation is that children have a right to be heard, and to not be subjected to any form of violence. This Law defines children as a primary concern for society and the State, and constitutes a very significant step forward in the protection of children against violence, placing the Spanish legislation among the most advanced in the world in this respect.

Nevertheless, the new Law leaves a few problems unresolved, including the lack of monitoring of abuse in juvenile centres or

homes. The text establishes the Social Services as the “agents of authority” in matters of violence, but this authority should have been shared with other institutional actors in addition to the juvenile protection courts.

Considering the different dimensions affected by this Law, and the many services that need to be strengthened in order to respond to all the challenges related to its implementation (social services, judiciary, healthcare, child protection services, etc.), the currently secured funding of the law (€70 million) is insufficient (ANAR 2019). To reach these objectives, therefore, it will be necessary to incorporate additional stable financial commitments from the Autonomous Communities and local governments.

Further reading

ANAR (2019), *Aportaciones de la Fundación ANAR al Anteproyecto de Ley Orgánica de Protección Integral a la Infancia y Adolescencia frente a la Violencia*: tinyurl.com/yqlbqzqw

Boletín Oficial del Estado (2021), *Ley Orgánica 8/2021, de 4 de junio, de protección integral a la infancia y la adolescencia frente a la violencia*, 5.6.2021: tinyurl.com/yzm98gk5

Gobierno de España (2018), *Documento refundido de medidas del Pacto de Estado en materia de violencia de género*. Congreso + Senado, 13.5.2018: tinyurl.com/yffsvpnj

Rhodes, J. (2015), *Instrumental*, Canongate.

Save the Children (2020): tinyurl.com/ydqg9nwb

Unicef-España (2016): tinyurl.com/yq3zk6r8

Author

Francisco Javier Moreno-Fuentes, IPP-CSIC and [Gregorio Rodríguez-Cabrero](http://www.gregoriocabrero.com) (University of Alcalá)

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