

Role of the Family in the Promotion of the Rights of the Child¹

Outline

1. The general discussion aims to address in more depth the rights of the child within the family.
2. Discussions are premised on the four principles of the Convention on the Rights of the Child, namely the "best interests" of the child (art. 3); non-discrimination (art. 2); the inherent right to life, survival and development (art. 6); and the child's right to express his or her views (art. 12). Two specific topics are proposed: the evolution and importance of the family; and civil rights and freedoms within the family.

Evolution and importance of the family

2.1. The basic institution in society for the survival, protection and development of the child is the family. When considering the family environment, the Convention reflects different family structures arising from various cultural patterns and emerging familial relationships. In this regard, the Convention refers to the extended family and the community and applies in situations of nuclear family, separated parents, single-parent family, common-law family and adoptive family. Such situations deserve to be studied in the framework of the rights of the child within the family. Relevant measures and remedies have to be identified to protect the integrity of the family (see, in particular, arts. 5, 18 and 19), and to ensure appropriate assistance in the upbringing and development of children.

Civil rights and freedoms within the family

2.2. The civil rights of the child begin within the family. The family has an important role to play as to the right of the child to be registered with a name, to a nationality, to know as far as possible his or her parentage, and to preserve his or her identity (arts. 7 and 8). Socialization and acquisition of values are developed within the family for freedom of expression and association, for privacy and discipline, and for the child not being subject to cruel, inhuman or degrading treatment or punishment, including neglect, corporal punishment, and sexual or verbal abuse. The family is an essential agent for creating awareness and preservation of human rights, and respect for human values, cultural identity and heritage, and other civilizations. There is a need to consider appropriate ways of ensuring balance between parental authority and the realization of the rights of the child, including the right to freedom of expression. Corresponding measures to prevent abrogation of these rights of the child within the family should be discussed.

3. Pursuant to article 45 of the Convention, other United Nations organs and specialized agencies, and other competent bodies (non-governmental organizations, research and academic institutions) concerned with the topic, are invited to contribute to the discussion and provide expert advice within their respective fields of specialization. The Committee on the Rights of the Child recognizes the importance of maintaining close contact with the secretariat of the International Year of the Family, in the United Nations Centre for Social Development and Humanitarian Affairs. In view of the recommendation adopted by the Committee at its first session concerning meetings with members of other treaty bodies to discuss matters of mutual interest relating to the rights of the child (A/47/41, Recommendation 3), the Committee decides to invite, to take part in its general discussion,

¹ Excerpted from CRC/C/24, 7th Session, 10 October 1994.

the Committee on Economic, Social and Cultural Rights, the Human Rights Committee and the Committee on the Elimination of Discrimination against Women. It further recognizes the importance of this thematic discussion to consider the situation of the girl child within the family (see CRC/C/20, Recommendation 4, paragraph 6. a/²

4. The Committee welcomes the presentation of papers dealing with any of the above topics for not more than 10 minutes, beyond which corresponding annexes can be submitted as part of the documentation.

Summary of General Discussion³

183. In view of the importance it attaches to the enhancement of a deeper understanding of the Convention on the Rights of the Child, and taking into account the fact that 1994 had been proclaimed as the International Year of the Family, the Committee had decided to devote one day of its seventh session to a general discussion on the role of the family in the promotion of the rights of the child.

184. Several organizations had submitted documents on the theme. The list of these documents is to be found in annex VI to the present report.

185. Representatives of the following organizations and bodies made statements on the day of the general discussion: United Nations Division for the Advancement of Women, United Nations Children's Fund, Office of the United Nations High Commissioner for Refugees, International Labour Organisation, Food and Agriculture Organization of the United Nations, World Health Organization, The Hague Conference on Private International Law, Anti-Slavery International, Associated Country Women of the World, Children's Rights Development Unit, Epoch Worldwide, Foundation for the Protection of Children Damaged from the State of Emergency, International Catholic Child Bureau, International Federation Terre des Hommes, International Movement ATD Fourth World, London Black Women's Health Action, National Children's Bureau, Radda Barnen International, Women Living Under Muslim Law. The Coordination of the International Year of the Family also made a statement.

186. The general discussion was framed by the outline which had been prepared by the Committee on the "Role of the family in the promotion of the rights of the child". Two main issues were addressed: the evolution and importance of the family, stressing the diversity of family structures arising from different cultural patterns and emerging family relationships, and civil rights and freedoms within the family, including the right to be registered with a name, to a nationality, to preserve the child's identity and not to be subjected to any form of mental or physical violence.

187. In their interventions the participants emphasized some of these issues, calling attention to the positive role the Convention has played in promoting the consideration of the rights of the child, the rights and responsibilities of parents and other family members, and the need to tackle situations in which the human dignity of the child may not be fully respected. Representatives of United Nations bodies and specialized agencies stressed the essential value of the Convention as a framework for shaping and implementing their respective programmes

² See also the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights (A/CONF.157/24 (Part I), chap. III, part I, para. 21, and part II, para. 49.

³ CRC/C/34.

designed to improve the situation of the family and to promote the protection of the rights of its members.

188. At the conclusion of the general discussion, the Committee reached some preliminary conclusions, which are summarized below.

189. The general discussion on the role of the family in the promotion of the rights of the child has allowed for extensive consideration of a diversity of issues relating to the responsibilities and rights of parents, the support and assistance to be provided by the State to families and their individual members, to the situation and the fundamental rights and freedoms of children within the overall framework of the family.

1. What is the family?

190. On the basis of the different interventions, it would seem hard to argue for a single notion of the family. Through the influence of economic and social factors, and of the prevailing political, cultural or religious traditions, the family has been shaped in a diversity of ways and naturally faces different challenges or living conditions. Would it therefore be acceptable to consider that only some kinds of family or family situations deserve assistance and support from the State and society i.e., nuclear, extended, biological, adoptive or single-parent families? Could it be considered that only in certain circumstances would the family or family life have decisive social value? On the basis of what criteria: legal, political, religious or other? Would it be possible to favour a perspective where only under certain conditions would children be given the opportunity to enjoy rights which, in fact, are inherent to the dignity of their human nature?

191. All these questions seem to place the essential value of the principle of non-discrimination in the forefront of the general discussion.

2. What is the child within the family?

192. Traditionally, the child has been seen as a dependent, invisible and passive family member. Only recently has he or she become "seen" and, furthermore, the movement is growing to give him or her the space to be heard and respected. Dialogue, negotiation, participation have come to the forefront of common action for children.

193. The family becomes in turn the ideal framework for the first stage of the democratic experience for each and all of its individual members, including children. Is this only a dream or should it also be envisaged as a precise and challenging task?

194. It is well known that much remains to be done. In view of the external circumstances surrounding the family and the tensions arising therein, be they economic, social or cultural, situations still often occur in which the child is supposed to work for and with the family, the girl is expected to take care of her siblings and replace the mother in all the tasks of the household, encouraged at an early stage to prepare for her "role" as a mother, etc. Children are often abused, neglected, and their right to physical integrity ignored, on the assumption that the privacy of the family automatically confers on parents the ability to make correct and informed judgements with respect to the "responsible upbringing of future citizens".

195. The hope was expressed that, by adhering to the essential principle of the best interests of the child and making use of active campaigns of awareness, information and education, it will be possible to change prevailing prejudices and cultural or religious traditions which are

contrary to the dignity of the child, detrimental to the child's harmonious development or prevent the effective enjoyment of the fundamental rights by children.

3. What is the child in the absence of a family?

196. The discussion also addressed the "usually forgotten" question of what is the reality of a child, in the absence of a family? In such cases, would the system of protection be improved? Would the best interests of the child ever be assessed? Would there be any room for the participation of the child? Would there be anyone to listen? Would it be possible to prevent and combat discrimination? In short, would it ever be possible to address seriously the situation of these children within the framework of fundamental human rights and freedoms?

197. All these questions are a natural encouragement to further elaboration, to further studies and discussions, and to concrete programmes and strategies both at the national level and within the framework of international cooperation. For all of them, the Convention was reaffirmed as the common reference and the inspiring document. The Convention is, furthermore, the most appropriate framework in which to consider, and to ensure respect for, the fundamental rights of all family members, in their individuality.

198. Children's rights will gain autonomy, but they will be especially meaningful in the context of the rights of parents and other members of the family - to be recognized, to be respected, to be promoted. And this will be the only way to promote the status of, and the respect for, the family itself.

199. The Committee expressed the hope that the debate may have played a catalysing role in the future consideration and action in this important issue.

200. The follow-up to be ensured in the future, both by the Committee and all other partners, in the implementation of the Convention on the Rights of the Child, will contribute to further developing the important conclusions of this general thematic discussion.

201. In view of the contributions made and the importance of the realities considered, the Committee decided to ensure a follow-up to its general discussion and prepare to that purpose a working paper to be discussed during its eighth session, scheduled to take place in January 1995.

List of Documents Submitted⁴

1. By United Nations bodies and organizations

UNESCO

- The Role of the Family in the Promotion of the Rights of the Child: An Educational Viewpoint

United Nations Division for the Advancement of Women

- Role of the Family in the Promotion of the Rights of the Child

⁴ CRC/C/34, Annex VI.

UNICEF

- Progress report on Preparatory Activities to the International Year of the Family, Inter-Agency Meeting, 10-12 March 1993
- Discussion paper on policy implications and support for families resulting from the World Summit for Children, its World Declaration and the Plan of Action for its implementation as well as the Convention on the Rights of the Child, UNICEF, 1993

United Nations Centre for Human Settlements (Habitat)

- Human settlements and children

World Health Organization

- The family cycle, family health and the Convention on the Rights of the Child

2. By intergovernmental organizations

Hague Conference on Private International Law

- Adair Dyer, "Protecting the Integrity of a Child's Family Ties"

3. By non-governmental organizations

Evolution and importance of the family

The International School Psychology Association

- "Secure Parent-Infant Attachment: a Foundation for Promoting the Rights of the Child in the Context of Family."

International Catholic Child Bureau (ICCB)

- Is there a conflict between the rights of the child and the rights of the family?

Associated Country Women of the World

- Cultural patterns and the way families can uphold moral and ethical values

International Federation Terre des Hommes

- Projects to strengthen family links and help children living on the streets to reintegrate their family

Civil rights and freedoms within the family

Anti-Slavery International

- Exploitation within the family (domestic services, chronic bondage, slavery)
- Video on early marriage in Ethiopia and child brides in Nepal

Epoch Worldwide

- The child's right to physical and personal integrity within the family
- Children's civil rights in the family

Penelope Leach, Commissioner, Commission on Social Justice (UK)

- Physical punishment of children

Minor's Rights (Australia)

- Review of research studies on the consequences of laws allowing the corporal discipline of children in cultures derived from England

NAPCAN (National Association for Prevention of Child Abuse and Neglect) (Australia)

- Protection of children against all forms of physical violence

National Children's and Youth Law Centre (Australia)

- Entitlement of children to the protection of their bodily integrity

The Canadian Society for the Prevention of Cruelty to Children

- Brief to the Minister of Justice and Attorney-General re. The Corporal Punishment of Children

Institute for the Prevention of Child Abuse (Canada)

- Brief to the Minister of Justice and Attorney-General re. The Corporal Punishment of Children

Hutt Family Violence Network (New Zealand)

- Physical violence by adults against children

4. Background papers and documentation (on file with the Secretariat)

Office of the Commissioner for Children (New Zealand)

Ian Hassall, *The Child's Right to a Place, but Whose Place?* Wellington, May 1994

Bureau international catholique de l'enfance BICE/International Catholic Child Bureau ICCB

L'enfance dans le monde/Children Worldwide, "Famille et résilience de l'enfant"/"The family and child resilience", vol. 21, No. 1/94

Jordi Cots, Famille - droits et responsabilités. Analyse des principaux textes internationaux. BICE, Lausanne, 1994

Centre de recherche pour l'étude et l'observation des conditions de vie

Les 9-14 ans: de l'encadrement vers l'autonomie. Etude commandée et financée par le BICE

BICE-Afrique

Aperçu sur la famille africaine. Abidjan, 1994

Vienna NGO Committee on the Family

Second Preparatory Committee of the World Summit for Social Development: statement of international NGOs on Family and Social Development

Mannerheim League for Social Welfare

Discipline is needed, but not disciplinary measures

Head and heart in parent education

Why are new methods needed in the prevention and treatment of child abuse and similar family problems

An experimental programme on social skills for the comprehensive school
Helping young people to become adults with the help of adults - a challenge for the International Year of the Family 1994

Education is needed, but what kind?

Parent school - the right of every parent

Some turning points of family education and its preventive aspects

A birth in the family encourages the father to take part in family life and child-raising (report of a study)

Département fédéral de l'intérieur (Suisse)

Groupe de travail Enfance maltraitée, Enfance maltraitée en Suisse, Berne, juin 1992

Epoch-USA

Philip Craven, Spare the Child: The Religious Roots of Punishment and the Psychological Impact of Physical Abuse. Vintage Books, New York, 1992

Hague Conference on private international law/Conférence de La Haye de droit international privé

Convention on the Civil Aspects of International Child Abduction/Convention sur les aspects civils de l'enlèvement international d'enfants. The Hague/La Haye, 1982

Status of the Convention as of 2 September 1994

Seventeenth Session, Final Act, (extract), The Hague, 29 May 1993

Fundación de Protección a la Infancia Dañada por los Estados de Emergencia (PIDEE)
(Protection of Children Injured by States of Emergency Foundation)

Report of the Documentation Centre on Infancy in Latin America (Centro de Documentación sobre la Realidad de la Infancia en América Latina (CEDIAL)). Santiago de Chile, June 1994

Loreta Alamos et al., Infancia y Represión. Historias Para No Olvidar. Fundación PIDEE, Santiago de Chile, 1992

M. Estela Ortiz R. y Chetty Espinoza M., Casa Hogar. Familia en Emergencia. Fundación PIDEE, Santiago de Chile, diciembre 1990

Infancia: Desaparición y Muerte. Informe de la Comisión Nacional de Verdad y Reconciliación. Fundación PIDEE, Santiago de Chile, 1991

Curso de entrenamiento para profesionales de América Latina sobre el tema de maltrato infantil. Fundación PIDEE, Santiago de Chile, julio 1994

Derecho a la Infancia. Revista sobre la infancia en América Latina. Santiago de Chile, 4 Bimestre, 1993.

RAPCAN (Resources Aimed at the Prevention of Child Abuse and Neglect) (South Africa)

Ending parental physical punishment of children

National Children's Bureau (UK)

Children's civil rights and freedoms within the family

Mannerheim League for Child Welfare (Finland)

Protection of children from all forms of physical or mental violence

End Violence Against the Next Generation, Inc. (USA)

Lesli Taylor and Adah Maurer, "Think Twice: The Medical Effects of Physical Punishment". Generation Books, Berkeley, CA, 1993

European Forum for Child Welfare/Forum européen pour la protection de l'enfance (Belgium)

Protection of children from all forms of physical and mental violence

Rädda Barnen (Sweden)

Swedish anti-spanking law