



General Assembly

Distr.: General
26 August 2014

English only

Human Rights Council

Twenty-seventh session

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

**Joint written statement* submitted by Save the Children
International, World Vision International, non-governmental
organizations in general consultative status, Groupe des
ONG pour la Convention relative aux droits de l'enfant,
Defence for Children International, Geneva Infant Feeding
Association, International Federation of Social Workers,
International Social Service, Plan International, Inc., SOS
Kinderdorf International, Terre Des Hommes Federation
Internationale, non-governmental organizations in special
consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 August 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-14763 (E)



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The rights of the child in family environments*

To celebrate the 20th anniversary of the international year of the family, the Human Rights Council (the Council) adopted resolution 26/11 in June 2014, which provides for a panel discussion on the protection of the family and its members to address States' obligations under international human rights law and discuss challenges and best practices in that regard.

Given the scope of the "Panel on the protection of the family and its members" and the Council's mandate, it is essential that the status and the rights of children, as defined under the UN Convention on the Rights of the Child (CRC), both as individuals and members of families, are integrated in the discussion.

To assist States in ensuring the inclusion of a children's rights perspective, we would like to recall **the following key States' obligations under international human rights law:**

I. Respect children as individual rights-holders in all settings

Children, including those who are family members, are individual rights-holders whose rights are defined by the CRC and all other human rights treaties. Their rights apply equally in family environments and elsewhere.

While the family environment is the primary place where children can live and thrive, children's rights are violated in some families, including by family members, notably through violence, abuse, exploitation and neglect.¹ Because "States have the primary responsibility to promote and protect the human rights and fundamental freedoms of all human beings, including women, children and older persons",² States have the legal obligation to respect and protect the rights of children, including by intervening in families, where needed, in accordance with the best interests of the child.³

II. Recognise all forms of families in order to respect the right of children not to be discriminated against, including on the basis of family status, and children's identity rights.

Children have an unequivocal right to non-discrimination, including on the basis of family status, activities of parents, guardians and family members.⁴ As explained by the UN Committee on the Rights of the Child, "young children may also suffer the consequences of discrimination against their parents, for example if children have been born out of wedlock or in other circumstances that deviate from traditional values [...]. States parties have a responsibility to monitor and combat discrimination in whatever forms it takes and wherever it occurs - within families, communities, schools or other institutions."⁵

Yet, families may take "whatever form", they have "different shapes and sizes".⁶ As the UN Committee on the Rights of the Child stressed, 'family' refers to "a variety of arrangements that can provide for young children's care,

¹ See Committee on the Rights of the Child, General Comment No. 8, The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2; and 37, inter alia) (Forty-second session, 2006), U.N. Doc. CRC/C/GC/8 (2006) at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f8&Lang=en

² See Resolution A/HRC/RES/26/11, on the Protection of the family, PP5

³ See Article 9.1 of the UN CRC, accessible at <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

⁴ See Article 2 of CRC, accessible at <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

⁵ See Committee on the Rights of the Child, General Comment No. 7 (2005), Implementing child rights in early childhood, (para. 36, p.6), (Fortieth Session, 2005), U.N. Doc. CRC/C/GC/7/Rev.1,

⁶ As the UN Secretary-General and the Director-General of the UN International Labour Organization recalled on the International Day of Families this year, see: <http://www.un.org/apps/news/story.asp?NewsID=47796#.U42PJ3I0WSr>

nurturance and development, including the nuclear family, the extended family, and other community-based arrangements, provided these are consistent with children's rights and best interests.”⁷

‘Family’ is therefore a social construct, which children experience in a variety of ways and forms, according to the cultural, political and/or social system or particular context (such as social change, man-made or natural disasters, conflict, urbanization, HIV/AIDS and health-related crisis) in which they live in. It includes the full range of care-giving environments, kinship, non-nuclear families, single-headed families, adoptive families, children-headed households and any other arrangements that may emerge, provided they respect children's rights and best interests.

Under the CRC, it is also clear that the term ‘parent’ is not limited to one category of parents, but encompasses genetic, birth and psychological parent, the latter referring to a person who is not biologically related to the child but cares for the child for significant periods of their childhood as they are ‘intimately bound up in children's identity’ and identity rights.⁸

States’ obligation to respect and protect children's right to non-discrimination and identity rights, and to comply with the overarching principle of the best interests of the child⁹ therefore includes the obligation to recognise all forms of families and parents, and refrain from defining such multifaceted social concepts.

III. Support and strengthen families

Families play a significant role in ensuring children's well-being and development and the realisation of their rights.¹⁰ Without safe family-based care, children are at risk of being involved in harmful work or other forms of exploitation, on the street or in institutional care.

To realise the full range of rights for all children – including the rights to access health, social care and education services and the right to protection from violence – States must therefore ensure that families with children can assume their responsibilities towards them and prevent violations of their rights. This is clearly spelled out in the preamble of the CRC and in article 18 of the CRC which provides that “States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities”.

In order to do so, States have the obligation to support parents, caregivers and families in their child rearing role. The implementation of such obligation usually comprises two main types of family policies: interventions to economically support families (e.g. through social protection and subsidies) and interventions to support parents and caregivers with parenting skills through home visitation or positive discipline, for instance.

To fulfil this obligation, States must therefore support all families and specifically strengthen those families in vulnerable circumstances ensuring tailored responses that address the root causes and the impact on the family. They

⁷See CRC/C/GC/7/Rev.1, 2006, paragraph 15, accessible at: <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/GeneralComment7Rev1.pdf>. The Committee on the Rights of the Child is the expert body mandated by States parties to monitor the realization of States obligations under the CRC, including through the examination of individual communications, and thus, to interpret the meaning and scope of children's rights in the light of the object and purpose of the CRC, in accordance with the Vienna Convention on the Law of Treaties.

⁸ UNICEF (2007) Implementation handbook for the UN Convention on the Rights of the Child, Fully Revised third edition. Geneva: United Nations Children's Fund, pp 104-5.

⁹ See Article 3 of CRC, accessible at <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

¹⁰ See, for instance, the preamble of the CRC.

must also ensure that their laws and policies in these areas do not exclude or discriminate against any child by making sure that they apply to all forms of families.

From a children's rights perspective, it is therefore clear that the "protection of the family" can only be understood as supporting and strengthening families to ensure the fulfilment of the rights of all its members, including the rights of children.

IV. Recommendations

We therefore call on all States participating in the "Panel on the protection of the family and its members", and in particular Member States of the Human Rights Council to:

- 1. Reaffirm that all children, whether they live in a family environment or not, remain rights-holders whose rights cannot be overlooked, limited or negated, because of the environment in which they live or the family they are a member of.**
- 2. Explicitly recall States' legal obligation to protect and respect the human rights of all individuals in families, notably by taking action to prevent and respond to violations of children's rights occurring in family environments, including by family members, by prohibiting and working to eliminate all forms of violence, exploitation and neglect in families, by providing alternative care for children, where needed, in respect of their rights and best interest, and by implementing family laws and policies that do not exclude or discriminate against any child.**
- 3. Explicitly acknowledge the existence of all forms of families by using the phrase "all forms of families in different contexts" in any discussion or international document on 'family' and ensure that all legislation, policy and practice related to families is in compliance with the CRC, in particular with children's right to non-discrimination and identity rights.**
- 4. Reaffirm that the "protection of the family" means supporting and strengthening families to ensure the fulfilment of the rights of all their members, including by providing them appropriate assistance in the performance of their child-rearing responsibilities.**

* Child Rights International Network (CRIN) Defence for Children International - Costa Rica Eurochild Global Initiative to End All Corporal Punishment of Children Truth and Reconciliation for the Adoption Community of Korea (TRACK) NGO(s) without consultative status, also share the views expressed in this statement.