

SAVE THE CHILDREN SWEDEN

Committee on the Rights of the Child Day of General Discussion Resources for the Child – Responsibility of States Sept 2007

The role of States Parties in supporting parents as a resource for children

Introduction

Save the Children welcomes the theme of this Day of General Discussion, which provides an opportunity to explore how best to enhance States' capacities and commitment to ensuring that resources are made available to children to the maximum extent. The Committee on the Rights of the Child places significant attention on the responsibilities of States Parties to provide adequate resources for children, in recognition of the fact that investment in basic social services is an essential precondition for the realisation of children's rights. This paper argues that parents and families must be understood as 'available resources' for children, and explores how the concluding observations of the Committee, particularly in respect of articles 18, 26 and 27, can best be directed to mobilising and strengthening family resources to protect children's rights..

In doing so, it first analyses the Convention on the Rights of the Child from the perspective of parents and families to provide an overview of the overall obligations of the State, and consequent implications for its role in providing resources to the family. Second, it reviews the reports of six States Parties, together with the Concluding Observations of the Committee¹. Through this review, it highlights the changing context of family life, and the consequent implications for States Parties in providing adequate resources for children through the family. Finally, in light of both the changing socio-economic context, and the legal obligations associated with the Convention on the Rights of the Child, it examines:

- to what extent States Parties are taking measures to provide the necessary resources and services to enable parents to promote and protect children's rights in accordance with the Articles 18, 26 and 27
- to what extent the Committee draws attention, in the dialogue with state parties and subsequent Concluding Observations, to the importance of parental care and government obligations to provide parents support
- how the Committee could strengthen its dialogue and recommendations to States Parties with regard to strengthening the family as a resource for children.

Recommendations

(i) Encourage States Parties to review the role and capacities of parents to serve as resources for children in the light of social, economic, cultural, and political changes impacting on family life.

Very significant changes are taking place both within, and impacting on families in countries throughout the world. Furthermore, the CRC introduces changes in the relationship between the child, the family and the state. Children must be recognised as rights holders, the state must be directly accountable to children, and parents have a call on the state for the provision of resources, while at the same time facing certain limits to their privacy and autonomy in respect of their children. Together, these changes have profound implications for the future of family life. However, there appears to be only limited recognition afforded by States Parties or the Committee on the Rights of the Child to the need to review the implications of these changes for government legislation, policy and resource allocation. The Committee should encourage States Parties to encourage dialogue between children, families, communities, religious leaders and others in order to better understand the context and nature of family life, the contributions of mothers and fathers, aspirations for the future, and how to ensure respect for the rights of the child while also protecting family privacy and the rights of women. Such debates will contribute to an analysis of how to mobilise parents as resources for their children to the maximum extent.

(ii) Encourage States Parties to involve parents in identifying resources needed for children.

Many government programmes are centrally driven with little evidence of consultation or engagement of parents in their development. Sustainable change for children towards the realisation of their rights requires the involvement of parents and the wider family as partners in identifying what programmes and resources are needed. The Committee consistently argues for a greater allocation of resources for children. In order to ensure their most effective utilisation, it could encourage States Parties to involve parents, as well as children, in a dialogue at local and community levels to explore their understanding of children's needs, gaps in their capacities to meet those needs, barriers impeding their fulfilment and the level and nature of support needed from governments. Governments also need to listen to mothers to ascertain what legislation, policy and resources are needed to address their financial vulnerability, and to strengthen the involvement and continuing support of fathers for their children.

(iii) Recommend that States Parties develop parent education programmes which build on and acknowledge cultures, values and traditions of communities' and children's views on parenting

If parent education is to be effective in building parental resources to promote their children's best interests, it needs to derive from an understanding of how men and women understand their parenting role, their cultural traditions, and their goals for their children. The language of human rights can appear threatening in many cultures. States Parties should be encouraged to develop programmes to promote parental understanding of children's rights within the context of families' own cultures, traditions and values, and seek to find common ground through which to build understanding, and adapt traditional patterns of child rearing. Opportunities for cross-generational dialogue should be encouraged to facilitate understanding and communication between parents and children.

(iv) Recommend that States Parties develop comprehensive family policies which recognise parents as a resource in programmes for the realisation of children's rights

States Parties give insufficient attention to parents as resources in the development of legislation, policies and programmes across the spectrum of children's rights. Yet in many aspects of public policy, the active participation of parents and the wider community will be of benefit to the realisation of children's rights. For example, within the juvenile justice system, restorative justice models, which bring together the family and wider community members to enlist their commitment and energies to help the child, have a proven track record in reducing offending and protecting children's rights. Comprehensive family policies recommended by the Committee should reflect the importance of mobilising parents as a resource for children throughout national action plans on the rights of the child.

1.1 What the CRC says about parents

The CRC actively serves to strengthen family lifeⁱⁱ. While all its provisions are focused on the rights of the child, many also elaborate a key role for parents, and other care givers, in their realisationⁱⁱⁱ: This role can be understood from four important and distinct perspectives

- ❑ The preamble includes reference to the family as the *fundamental group of society* and affirms the natural environment for the growth and well being of its members, and that children should grow up in a family environment in an atmosphere of happiness, love and understanding.
- ❑ The Convention re-affirms the principle of *respect for family autonomy* already established in earlier human rights treaties^{iv}:
 - **Article 5** – respect for parental rights, duties and responsibilities to provide direction and guidance to their children^v.
 - **Article 7** – the right of children, as far as possible, to know and be cared for by their parents, affirming the presumption that children are best cared for within families.
 - **Article 8** – preservation of identity, including the right to family relations without unlawful interference.
 - **Article 9.1** – non-separation of children from parents unless in their best interests, and where separation is necessary, the right to maintain regular contact with the child.
 - **Article 14** - rights and duties of parents to provide direction in exercise of the right of children to freedom of thought, conscience and religion, consistent with the child’s evolving capacities.
 - **Article 16** – non-interference with privacy of family.
- ❑ The CRC also introduces obligations on states to *fulfil rights, by* providing the necessary *institutions, services, support and facilities* to families:
 - **Article 3.2** – states have obligations to provide protection and care for children as necessary for their well-being, taking into account the rights and duties of parents.
 - **Article 18** – both parents are recognised as having the primary and equal responsibility for the upbringing of their child, but the state must provide assistance.
 - **Article 24 (d) (e) and (f)** – health care and education for parents is required.
 - **Article 26** – financial support should be provided for children, either directly or through their parents, when parents are unable to provide adequately.
 - **Article 27** – while parents have primary responsibility for securing the conditions for a child’s development, the state must assist parents in fulfilling this obligation.
- ❑ Finally, the CRC introduces obligations on states to take measures that serve directly to *protect the rights of families*, including:
 - **Article 9.4** – the state must provide information, and ensure no adverse consequences, where a parent or child is separated from the family as a result of actions of the state.
 - **Article 10** –the state must deal with requests to enter or leave a state for the purposes of family reunification in a positive, humane and expeditious manner, and allow separated children or parents to leave or enter the country in order to maintain contact.
 - **Article 29.1 (c)** – the aims of education require that the curriculum includes provision to develop respect for the child’s parents.
 - **Article 37(c)** – if children are deprived of their liberty, they are entitled to maintain contact with their family, through both correspondence and visits.

Overall, then, it is clear that the Convention attaches profound significance to the family as central to the realisation of children’s rights. It constructs a triangular relationship between the state, the family and the child which necessitate a range of measures, backed up by resources, on the part of States Parties to protect and support parental capacity to fulfil their responsibilities to children.

1.2 Implications of the CRC for families

Traditionally in most societies, government policy has tended to subsume children within families, with an overall presumption that their interests were not only consistent with those of their parents, but that parents will necessarily promote their best interests. Other things being equal, parents will utilise all their resources – emotional, intellectual, social, physical, financial, spiritual - to fulfil their role in promoting their children’s

optimal development. However, while many parents are powerful advocates for their children –fighting for more resources, better schools, or improved health care - it is not sufficient to rely on their goodwill on behalf of children. Parents can also neglect and abuse children. The CRC demands that children are rendered visible, and identified as individual rights holders, with direct government accountability for the fulfilment of those rights within as well as outside the family. States Parties are explicitly required to consider the resources they make available for children. General Comment No 5 on General Measures of Implementation presses States Parties to take steps ‘*at all levels of governments to ensure that economic and social planning and decision-making and budgetary decisions are made with the best interests of children as a primary consideration*’^{vi}. They are required to identify the proportion of national and other budgets allocated to the social sector and, within that, to children.

This process of rendering children visible within the family has been essential, in order both to effect the cultural change towards recognition that they are rights holders, and to ensure explicit focus by States Parties on the realisation of those rights in legislation, policy, and resource allocation. Many aspects of family life need to change if the rights of children are to be realised – for example, discrimination against girls, lack of involvement of fathers, physical punishment, and exclusion of children with disabilities.

However, in acknowledging that children’s rights cannot be subsumed within overall family policy, the pendulum has swung from the extreme of complete invisibility of children within families, to one of isolation, in which their rights are deemed to exist largely independent of their families. Neither is an adequate approach. A more holistic and integrated approach towards the realisation of children’s rights within their families is needed. Children do not exist as islands. Rather, they inhabit a social ecology beginning with the family and reaching out through the local community to the government at local and national levels. Action to promote their rights cannot be achieved without reference to the environments within which they live. In other words, the situation of parents and the wider family must be considered when policy making across the range of children’s rights. This does not mean relinquishing recognition of children as subjects of rights. However, it does mean that those rights must be understood within the context of children’s families and communities. Compliance with the CRC necessitates an exploration of how to reconcile these apparently conflicting conceptualisations of the status of the child and construct a model which both affirms respect for children’s rights and builds on recognition of parents as the primary resource available to protect and promote those rights, through partnership with governments.

2 Overview of the six States Parties reports and concluding observations

2.1 The changing nature of the family

As the Committee on the Rights of the Child observed in its Day of General Discussion on the family, there is no single notion of the family^{vii}. Nevertheless, in the States Party reports examined, the primacy placed on the family as the basic unit for caring for children, and their role as the key resource for children, is universally recognised. Also common to each of the reports is a growing concern that the widespread changes to family life are weakening their capacities to provide the level of care and protection needed to ensure the realisation of their children’s rights.

There is a trend towards smaller families, lower fertility, more women in the labour market, higher levels of divorce, more single parents and the break up of the extended family with its associated role in caring for children. Poverty, conflict and natural disasters have served to weaken the family’s role as provider and protector of children. Educational and labour market dynamics are leading to migration, with many children experiencing one or even both parents spending significant periods away from home. The HIV/AIDS pandemic has had catastrophic impact on the resources available to families, with grandparents often providing substitute care for large numbers of children. In addition, the world in which children are now growing up offers fundamentally different childhoods to those experienced by older generations. In the past, parents, together with local communities, were able to regulate the environment in which their children grew up. Now globalisation is re-shaping relationships between parents and children. Children are exposed to multiple sources of information, worlds outside their direct experience, and values and cultures which challenge those of their family. The gulf of experience and expectation between parents and their children significantly weakens parental influence.

Traditional rituals to demarcate the transitions to adulthood are being eroded. Global corporations compete with the family to exert the greatest influence on children, yet, unlike parents, bear no responsibility for them, are not accountable and have no interest in them beyond their spending power^{viii}.

These changes herald some positive outcomes – more educational and employment opportunities, raised aspirations, and challenges to harmful, repressive and constraining traditions. Conversely, availability of drugs, exposure to violence, a sexualised media, high-risk sexual experimentation, competitive educational environments, and enhanced aspirations for material goods pose real challenges for children. They also challenge parents, who carry the same responsibilities for their children, but with diminished power, fewer certainties, and less resources. Together with the obligations of the CRC towards children, they have significant implications for the relationship between the child, parents and the state.

2.2 The role of the family

Article 18 states that the best interests of the child will be the parents' basic concern. In its 1996 Reporting Guidelines for States Parties, the Committee requested information on laws relating to parental responsibility, including recognition of the common responsibilities of both parents^{ix}. Traditionally, it was possible for parents, with the support of the wider family and local community, to provide the predominant body of care for children: there was less role for the state. However, the changes in expectations, levels of support, and exposure to risk are decreasing parental capacity alone to serve as a sufficient resource for their children. And the Convention on the Rights of the Child elaborates a balance between continuing respect for the privacy and protection of the family, while also imposing obligations on the State to provide the necessary resources to enable the family to fulfil its obligations to children^x.

This balance is recognised in principle in the six country reports. South Africa defines the family as the '*primary social unit which ideally provides care, nurturing and socialisation for its members*'. Bangladesh similarly describes it as the '*basic fundamental unit*', and in Senegal, the constitution affirms the natural right of parents to bring up their children. In support of this recognition, the reports also emphasise the legal responsibilities of parents. For example, in Colombia, the Constitution establishes the principle of joint responsibility by state, society and family for protecting the rights of the child, and Romania's Family Code requires parents to rear their children and take care of their health and physical development. However, all six countries recognise that most families can no longer be a sufficient resource for children without support from the state.

2.3 Primary forms of support

The support provided to families can be categorised broadly into three approaches - direct support in the form of social security and child and family allowances, services and facilities in the form of, for example day care, nutrition programmes, and counselling and information such as parent education, psychosocial counselling, and media campaigns.

Direct support

In respect of Articles 26 and 27, the 1996 Guidelines requested information on measures adopted to realise the right of every child to benefit from social security, how benefits take account of the resources already available to the child and his or her family, whether children can apply directly for benefits, measures taken to ensure an adequate standard of living, indicators used to assess an adequate standard of living and its prevalence, criteria for assessing parental capacity to provide for the child, all measures taken to assist parents to implement the right to an adequate standard of living and measures to provide material assistance and support programmes.

Levels of governmental provision of direct financial and material support to families reflects both the economic situation within the country and attitudes towards the relationship between individual families and the state. South Africa is strongly committed to redressing the imbalance in distribution of resources towards a more equitable approach, and has introduced a child support grant system for children under seven years, a programme for unemployed women to increase their education and training and a Primary School Nutrition Programme to encourage enrolment. Romania and Senegal provide child allowances for all children up to 18 years of age, and Romania also has a range of services, including help with phones, priority state housing and

subsidised rents for families where there is a child with a disability. Senegal has set up a fund to reduce poverty and assist disadvantaged families through cash benefits, food, durable goods or free health or education. Colombia links direct support to school attendance through food and schooling subsidies paid to mothers as incentives to participation, and provides housing loans to improve access to reasonable accommodation. Bangladesh provides no direct support for children in the form of a grant or allowance, relying, rather, on the extended family. However, the government has developed training and agricultural projects, as well as programmes promoting credit and entrepreneurship, to strengthen women's resources to support their children.

The Committee consistently argues for more direct financial resources to be provided to support the family, taking the view that States Parties are not fulfilling their obligations to make available resources to the maximum extent. However, it emphasises not only that there is a need for a redistribution of resources from the state to the individual family, but also between family members. It highlights the common responsibilities of both parents. Gender inequality inhibits the availability of resources for children, with financial hardship significantly compounded by a lack of support by fathers. In all six countries, the vulnerability of women is compounded by the wider social changes impacting on the family, with increased risk of abandonment and divorce, and decreasing opportunity to draw on the extended family or community. The Committee draws attention to the importance of mechanisms to enable women to claim maintenance and the need to encourage men to take more responsibility for their children.

Care and support for children

Article 18 of the CRC requires the development of institutions, facilities and services for the care of children, and that children of working parents have access to child care services. The 1996 Guidelines only requested general information on measures taken, with specific reference to single parents, and those belonging to disadvantaged groups, including those in extreme poverty, backed up by data on the numbers of children benefiting from these measures and the resources allocated to them. However, in the General Comment on early childhood, it calls on States Parties to provide programmes of health, care and education for young children, particularly those who are most vulnerable and at risk of discrimination, and for collaboration with parents in developing early childhood education programmes that complement their role^{xi}.

In all six countries, programmes to support families in the practical provision of services for children remain extremely limited, often restricted to small scale programmes and reliant on NGOs. Despite this, the Committee only pays limited attention to the specific provision of direct care or other services for children. In none of the countries in the review was any recommendation made to strengthen availability or quality of child care services. Rather, the themes that arise in the Concluding Observations relate to the need for comprehensive family policies, decentralisation of family services, and enhanced overall resource allocation. The case for early years' education and high quality day care is not explicitly addressed.

Enhancing parental capacities to promote and protect their children's rights

The provisions of Article 18(2) requiring facilities and services for the care of children indicates the need for programmes which are aimed at parents, and seek to strengthen and mobilise their capacities to provide appropriate care for their children. The Guidelines seek information from States Parties on the availability of family and counselling services, parent education programmes and awareness campaigns, training activities for relevant professional groups and evidence of their effectiveness

Overall, the reports provide evidence of significantly greater activity to strengthen parental capacities than in the direct provision of childcare services. The South African government, for example, runs a wide variety of parental guidance and life skills and education programmes. Interestingly, assessment of parental capacities differs significantly between the first and second Bangladeshi report, with the former, in 1997, emphasising widespread recognition of children's developmental needs across all sections of society, and the latter, published in 2003, expressing concern as to the lack of knowledge both of children's rights and child development amongst the majority of parents, leading to a restricted ability to make informed judgements as to children's capacities at different ages, with an overall tendency to underestimate them. In response, a project targeted at 4-5 million caregivers, has been instigated to enhance knowledge and skills to enable them to support the optimum development of their children, together with a child rights communication. A similar shift

in view is evident between the two Romanian reports. In both Colombia and Nicaragua, there is a strong emphasis on efforts to strengthen family and community structures amongst deprived groups through intersectoral strategies, including civil society. This contrasts, for example, with Romania, where provision tends to be centrally determined.

The concluding observations of the Committee repeatedly urge States Parties to provide awareness raising, education, and guidance to parents to strengthen their capacities and resources to protect their children's rights.

3 Conclusion

The Committee on the Rights of the Child has raised awareness of the need for more government programmes of support for parents. However, the scale and range of programmes available remains limited, and many families are struggling to fulfil their obligations to their children. The Concluding Observations do not elaborate how States Parties could develop coherent, overall strategies for involving and supporting parents as a resource for children. The recommendations tend to be fragmented and lack an overarching analysis of the role that parents can and do play in their children's lives. There is insufficient recognition of the need for analysis of the impact of the changing environment for families, and the consequent implications for the role of governments. Furthermore, there is little evidence of any commitment to real partnership with parents in identifying the resources they need to fulfil their responsibilities to their children, or the role that they can play in contributing to the realisation of their rights.

More emphasis needs to be placed on the potential virtuous circle in the relationship between governments and families in respect of children. The allocation of resources to families will, in turn, strengthen and reinforce the resources that parents themselves make available for their children. And this in turn will lead to the greater promotion and protection of children's rights. However, in order to achieve sustainable and optimal outcomes, programmes need to be developed in partnership with families, recognising the strengths that they bring, and respectful, consistent with children's best interests, of their expertise, culture and commitment to their children.

References

ⁱ The paper reviews two States party reports from each of the following countries: Bangladesh, Colombia, Nicaragua, Romania, Senegal and South Africa, together with the relevant Concluding Observations of the Committee on the Rights of the Child

ⁱⁱ The Role of the Family in the Promotion of the Rights of the Child, <http://www.unhcr.ch/html/menu2/6/crc/doc/days/family.pdf>

ⁱⁱⁱ The Committee on the Rights of the Child recognises that the family is understood to include both the nuclear and extended family, single parents, legal guardians and any other family structure recognised by local communities

^{iv} Article 17, ICCPR, and Article 8, ECHR

^v Article 5 states that direction and guidance in the exercise by the child of his or her rights by the parents must be appropriate and provided in a manner consistent with the evolving capacities of the child, see Lansdown G, *The Evolving Capacities of the Child*, UNICEF Innocenti Research Centre/Save the Children, Florence, 2005

^{vi} Committee on the Rights of the Child, General Comment No.5, General Measures of Implementation of the Convention on the Rights of the Child (arts 4, 42 and 44, para 6), CRC/GC/2003/5

^{vii} The Role of the Family in the Promotion of the Rights of the Child, Day of General Discussion, Committee on the Rights of the Child, 1994

^{viii} Miles S, (2004) *Young people in a globalising world*, in *World Youth Report: the Global Situation of Young People*, UN Youth Unit, New York

^{ix} This paper refers to the 1996 CRC Reporting Guidelines (CRC/C/58, Nov 1996) as these were applicable when the reports reviewed were produced. The 2005 guidelines (CRC/C/58/Rev.1, Nov 2005) are less detailed in their requests for information on individual rights, placing more emphasis on a generic overview of the nature of information required in respect of all rights in the CRC, and referring to the detailed guidance provided on the general measures of implementation in General Comment No.5.

^x It also introduces boundaries on the authority of the family consistent with the protection of children's rights, However, this is not the focus of this paper, and accordingly is not addressed here.

^{xi} Committee on the Rights of the Child, General Comment No 7, Implementing Child Rights in Early Childhood, *CRC/C/GC/7*