

WIO Conference

Children without Parental Care: Need for Urgent Action

Jaap E. Doek
Chairperson UN Committee on
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Introduction

Among many other things the CRC is the international human rights treaty ratified by 193 States (out of the 195) that provides children in a variety of difficult circumstances with the right to protection.

In that regard there is e.g. a lot of attention for children victims of armed conflict, the commercial and sexual exploitation of children (child labour, child prostitution, child pornography, trafficking and sale of children).

That is undoubtedly the result of concerted international actions based on and inspired by the CRC and its two optional Protocols, the ILO Conventions, in particular No 182 on the elimination of the worst forms of child labour and on internationally adopted general Plans of Action (see in particular WFFC; and for attention to protection see section 3 of this Plan) and specific plans of actions (e.g. Stockholm 1996, Yokohama 2001 on commercial sexual exploitations).

In the middle of all these very commendable actions and plans one category of children in need of special protection is hardly visible or dealt with in a comprehensive manner: children without parental care.

It was one of the reasons for the UN Committee on the Rights of the Child to devote its annual Day of General Discussion in 2005 to these children.

This was done not only because the Committee wanted to raise awareness on the plight of these children, but also with a view to promote the development and adoption of international guidelines for the care and protection of children without

parental care. At the same time increased actions are urgently needed. Children find themselves in situations without parental care e.g. because they are abandoned by their parents, often but not only due to poverty, or because they have lost both parents or the caring parent as a result of the HIV/AIDS pandemic or of a natural disaster. Others are separated from their parents because of armed conflict, internal and cross border displacements.

Many of them are in institutions under often very poor conditions and victims of serious forms of abuse and violence. A matter of deep concern in this regard is the institutionalisation of children with disabilities. Various studies (see e.g. Child Abuse in residential care institutions in Romania UNICEF and others 2002) present a very disturbing picture of abuse and very poor living conditions.

Just to illustrate the need to take urgent action some figures as provided by UNICEF (Child Protection Information Sheets UNICEF New York 2006).

Europe + Central Asia : about 1,5 a 2 million children in institutional (including former Sovjet Republ.) (public) care

Sub-Saharan Africa, Asia + Latin America about 143 million children (0<18 yrs) lost one or both parents

Of these children 15 million were orphaned by HIV/AIDS (12 million of them in Sub-Saharan Africa) and 87,5 million live in Asia.

Given the poor data-collection in many countries it is likely that the total number is much higher and may be somewhere between 150-200 million children.

In short: in quantitative terms children without parental care constitute one of the major problems we are facing in this world. It requires massive and well organized and coordinated actions to not only prevent as much as possible that children are without parental care and in case they are that they are provided with adequate alternative care as much as possible in a family setting.

2. What is done?

It should be acknowledged that in many countries attention is paid in different degrees to the phenomenon of children without parental care.

A lot of the current activities to support and protect children without parental care takes place in the framework of combating HIV/AIDS and in situations of emergencies (armed conflicts and related displacements, earthquakes (Pakistan), tsunami and other natural disasters). In addition efforts are undertaken to reduce institutionalisation of children. But in most countries a well elaborated and targeted policy to prevent children from becoming without parental care is often lacking despite the fact that there are some programmes for family support and counselling and training parents.

UNICEF has contributed and is contributing to the development of family support services, social work and foster care systems while at the same time supporting efforts to reduce institutionalisation of children. At the national level NGO's are sometimes involved in addressing the problems of children without parental care. But the overall picture is that most countries do not have a comprehensive and effective national plan of action to prevent and reduce the phenomenon of children without parental care, including the necessary measures to provide children without parental care with alternative care in a family type setting e.g. within the context of the extended family or via foster care, Kafalah or adoption. Progress in the development of appropriate alternative care and the reduction of institutionalisation is too limited. More must be done and that is why I welcome the efforts of World Initiative for Orphans to undertake with a sense of urgency actions with a view to contribute to prevention and to improvement of the plight of children without parental care.

We are facing, as said, a huge problem and there is a need and a lot of room for more and new initiatives in close cooperation with already existing activities. We need to strengthen our efforts in this regard.

3. What should be done?

In addition to what I already said in terms of further strengthening our activities with the necessary sense of urgency, let me quote from the guidelines currently prepared by UNICEF, the ISS and in consultation with the UN Committee on the Rights of the Child.

The Guidelines are directed towards

- supporting efforts to keep children within, or return them to their family of origin and
- where that is not possible or not in the best interest of the child to seek a definite solution through adoption or Kafalah, or
- if this also is not possible to identify and to provide the most suitable forms of alternative care under conditions that promote the child's full and harmonious development as part of an integrated national child protection policy.

With this as a background I like to go back to the question: what should be done? I have to limit myself to some general answers and hope that we will have opportunities during this conference for more indept discussions about the question "what should be done"?

First: Governments must, while taking into account the provisions of the CRC, develop and implement a national plan or action programme. This plan must contain measures to prevent as much as possible that children are losing their parental care and measures to ensure that children without parental care can return, if possible and in their best interests, to their family of origin. If that is not

possible measures must be taken to provide these children with definitive solutions (adoption/Kafalah) or other forms of suitable alternative care.

Second: this plan of action should be fully in conformity with the CRC, more in particular with its fundamental principles and rights. This means that the right to non-discrimination (art. 2 CRC) must be fully respected.

In this regard special attention should be given to girls and other children in need of special support such as children with disabilities, children victims of abuse and exploitation, children living on the streets, children born out of wedlock, children belonging to minorities or indigenous peoples, children infected or affected by HIV/AIDS, children victims of armed conflicts and/or displacements, children of migrant workers and refugee and asylum seeking children.

It also means that in the development and implementation of a national plan of action children themselves should be given a genuine and appropriate opportunity to express their views. Views which must be given due weight in accordance with the child's age and maturity (art. 12 CRC). Targeted measures must be taken to ensure the implementation of this important right of children.

There is a considerable amount of information indicating that this involvement of children contributes to a positive result of a policy or programme since it enhances an implementation of the measures tailored to their needs.

Some remarks about the key elements of this comprehensive national policy/

- Family preservation and support

In order to prevent that children are without parental care governments must address the root causes of child abandonment, relinquishment and separation of the child from her/his family. This means, inter alia, that governments should invest in measures that ensure for parents and their children access to adequate

housing, to basic health care, education and social welfare services while at the same time combating poverty, discrimination, marginalisation, stigmatisation, violence and abuse.

Family support should aim at empowerment of families with attitudes, skills, capacities and tools enabling them to provide for the protection, care and development of their children. This may include parenting courses or sessions, the promotion of positive parent-child relationship and conflict resolution skills. Other measures may be income-generating projects including micro-credit facilities.

- Alternative care

First: some general remarks

In deciding on the most appropriate alternative care the best interests of the child have to be a primary consideration. Factors in this regard are e.g. the age of the child, her/his special needs, the distance between the location of the alternative care and the family of origin, in particular when there is still the likelihood that the child will return to this family; but also in case of placement in an institution because the child has the right to maintain contact with both parents (art. 9 CRC). The highest quality of alternative care is of the utmost importance for the child's healthy and harmonious development. Professionals and volunteers working in alternative care should be well trained and should participate regularly to ongoing training/permanent education. In addition they should comply with (specific) rules of behaviour (protocols/regulations) and fully respect the rights of the child and the physical environment for children in alternative care (space in the building, sleeping facilities, sanitary provisions, sports facilities etc) should be of the highest attainable standard of quality.

In order to ensure that children in alternative care are not exploited, abused or are (otherwise) not provided with adequate education and health care regular inspections (e.g. by the responsible ministry) and independent monitoring (e.g. by a children's ombudsman) is crucial. At the same time, children should have access to child-sensitive and effective complaints procedures in order to allow for a remedy in case of violation of their rights and/or applicable rules.

All this requires that the government takes targeted legislative, administrative and other measures and provides the necessary human and financial resources.

Different forms of alternative care

There is no hard general rule that applies to all States Parties to the CRC which form of alternative care must be used when and for which child. As I said before many factors play a role in the context of the best interests of the child as the primary consideration. But the CRC Committee has regularly expressed the view in recommendations to governments of States Parties that family-type of alternative care should be given priority, as much as possible and in the best interests of child, over other forms of alternative. In many States Parties the extended family can and does play an important role in providing alternative care e.g. for children who became orphans as a result of HIV/AIDS or of a natural disaster. The CRC Committee encourages/recommends States Parties to support as much as possible the extended family as a provider of alternative care.

Other forms that need further strengthening/support in quite a number of States is foster care, including family-type foster homes (e.g. one couple caring for 5 a 8 foster children). For children who need a permanent form of alternative care the responsible authorities and/or private/public care providers should seek to promote domestic adoption or Kafalah and if necessary inter-country adoption. This

permanent alternative care should be in full compliance with the principles and provisions of the CRC; see in particular art. 21 CRC on domestic and inter-country adoption, and other international treaties or standards, e.g. the Hague Convention on inter-country adoption.

Finally, institutional care may be necessary for some children but should last for the shortest appropriate period of time. Placement in institutions should be in principle a measure of last resort and efforts should continue to provide the child with a family-type of alternative care. As the preamble to the CRC states: the child, for the full and harmonious development of his or her personality should grow up in a family environment, in an atmosphere of happiness, love and understanding.

It is the challenge to achieve this for all children without parental care not only for governments of States Parties to the CRC, but also for NGO's, UN agencies, the international community in the framework of international cooperation (see art. 4 CRC) and for each of us. I am convinced that you are here to discuss how this challenge can be met and I wish you a very productive conference.