



Convention on the Rights of the Child

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Summary record (partial)* of the 1061st meeting

Held at the Palais Wilson, Geneva, on Friday, 16 September 2005, at 3 p.m.

Chairperson: Mr. Doek

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* No summary record was prepared for the rest of the meeting.

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The discussion covered in the summary record began at 5.10 p.m.

Day of general discussion (agenda item 7) (*continued*)

Children without parental protection (continued)

1. **The Chairperson** invited the rapporteurs of the working groups to give an overview of the discussions they had moderated.
2. **Ms. Al-Thani** (Rapporteur of working group No. 1 on “The State’s role in preventing and regulating separation”) said that the best interests of the child had to be a core principle. States must pursue family welfare policies in order to protect children within their own families and ensure that institutionalization was not the result of a lack of policies on the subject. That was the preventive aspect of State action in that area.
3. A child’s right to a family was a fundamental right. Children’s opinions must always be taken into account and they must be kept properly informed of decisions affecting them.
4. The legal framework must likewise be grounded in parental responsibility. The rights and responsibilities of grandparents and the extended family should also be recognized, both in legislation and in practice. All adults had a responsibility to protect children. That being so, families and family associations could also play an educational role for other families. As a general rule, there was a need to put in place nationwide family welfare plans encompassing different services, such as health services, and it was not enough just to provide subsidies.
5. Account had to be taken of the specific needs of particularly vulnerable children, who were sometimes deprived of family protection even before birth; that was true, among others, of children belonging to minorities, disabled children, children affected by HIV/AIDS, indigenous children, children coping with drug addiction and the children of refugees and asylum seekers.
6. Children expressed a preference for community-based alternative care systems, as they felt better in familiar surroundings. That being said, the importance of the local context and local authorities should not be overlooked when children were assisted in that way.
7. Research had been suggested to determine more accurately how parents brought up their children. It would likewise be helpful to have more information on the situation and background of children when they were taken into alternative care.
8. Parenting should be taught at school with the aim of helping adults to be good parents. Welfare systems ought to take greater account of community and indigenous values.
9. Prevention and early detection of children at risk should, like other services, be overhauled.
10. **The Chairperson** emphasized that prevention was an important element in child protection. The decision to take a child out of the parental home led to very different outcomes from when children lost their parents because of abandonment or for socioeconomic reasons.
11. **Mr. Zermatten** (Rapporteur of working group No. 2 on “Identifying the challenges of caring for children outside the family”) said that the participants in the group had come out unanimously in favour of establishing guidelines on care for children without parental protection, which would be useful not only for Governments but also for child protection services, social workers, parents, families and children as objects of protection and subjects of rights. For those guidelines to be binding, they would have to be adopted by the United Nations, at the urging of the Committee on the Rights of the Child. Consideration had even

been given to drafting them in the form of an optional protocol to the Convention on the Rights of the Child.

12. What had come out of the discussions was that placement in institutions as conceived in the nineteenth century and developed in the twentieth was no longer a panacea in many countries and ought to give way to smaller-scale care units run by qualified staff, to which the name “residential centres” might be given. Stress had also been laid on the risk of stigmatization that children placed in such residential centres might run.

13. With placement in institutions no longer looking like the best option, everyone was in agreement that the family was the institution best placed to protect children. Drawing on the experience of the past, the participants had recalled solutions that were once current, such as “standard” family foster care, fostering by relatives, temporary placement and placement in an open centre or in a day centre or night shelter, always emphasizing that each situation had its own specific solution. The right procedure, in accordance with the “individualization principle”, was to assess each child’s individual situation and provide a personalized solution, ideally a lasting one, that allowed the child to maintain ties with his or her biological family as far as possible.

14. The care process was beset by numerous obstacles that differed from case to case, including shortages of time (since placement decisions usually had to be taken in a hurry), staff, room at child welfare establishments, “ideal” families and funding. There were also situations where the immensity of the task made care provision particularly difficult, as in Africa with its millions of AIDS orphans or in Asia in the aftermath of the tsunami. All those factors were compounded by a lack of creativity among the responsible authorities and staff, who did not always have the initiative to change the way things worked by seeking out new solutions.

15. It was thus vital to train staff so that they could carry out social surveys systematically and to monitor welfare arrangements by overseeing the different care centres, the activities that actually went on there and the qualifications of their staff. Such oversight would make it possible to gauge the relationship between the effort invested and results achieved and determine how well children were actually doing, among other things.

16. Participants in the working group had also expressed the view that the guidelines should stress the need for children’s own opinions to be given the highest importance, as prescribed by article 12 of the Convention, in the procedures leading up to a decision about their future care or any alteration or reversal of a decision of that type. Indeed, children’s opinions needed to be not only heard but understood, and it would accordingly be desirable to set up complaints mechanisms that they could turn to.

17. The goal of the new international instrument which the participants in that day of general discussion had chosen to term “guidelines” was to form a better idea of children’s best interests as per article 3 of the Convention, the better to meet their needs. In preparing that instrument, however, there was an essential point to be borne in mind: that children were endowed with extraordinary resources which they only asked to be allowed to draw on, and everyone had a duty to help them do that.

18. **The Chairperson** observed that, given the reform process currently under way at the United Nations in the area of human rights, it was best to formulate succinct guidelines and concentrate on their application so that concrete results could be achieved.

19. To develop its guidelines, the Committee would engage in an open, consultation-based process whose inputs would include the items brought up at the day of general discussion. The work done represented a very good start and the Committee hoped that, in consultation with the United Nations Children's Fund (UNICEF), States parties and international and local non-governmental organizations (NGOs), it would be able to develop guidelines that were helpful to actors working on the ground.

The meeting rose at 5.50 p.m.