



**Monthly Review N° 11-12/2009  
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***We wish you all a very joyful and peaceful holiday  
and trust that in 2010 we be able to further contribute  
to the promotion and protection of the rights of the child deprived of their family!***

EDITORIAL

**In 20 years, the Convention on the Rights of the Child has achieved a lot for children, even if numerous challenges remain**

*The Convention has made it possible to blaze indispensable trails for the protection of children, particularly those deprived of family. It is now a matter of reinforcing and implementing them better.*

**T**wenty years: what an important landmark. At this stage, the mumbling disagreements and growing pains of youth generally belong to the past. The character has been hammered out. The values and principles of life have been established. At 20, it is time to consolidate what have become established facts and to pursue the targets that have been fixed with all the energy of youth. This is exactly the stage which now awaits the Convention on the Rights of the Child (CRC). The CRC celebrates its 20<sup>th</sup> heyday this year. In the course of its short existence, it has already covered a long road. Despite the obstacles and the doubts, its principles are widely recognised today as well as its objectives. In order to convince the most reticent that the CRC is unavoidable, it is essential to reinforce its position and implementation.

**The child at the centre of decisions that affect him**

The greatest advance of the CRC is certainly the evolution of the perception of the child that it has induced, the latter having finally become a real subject of rights. This change influences the comprehensive protection of children at every level including children deprived of their family, which interests us especially in this Review.

So, the child is henceforth placed at the centre of decisions that concern him. By virtue of the principle of the child's best interest declared in article 3 CRC, his interest must be protected as a priority, and under all circumstances. This principle, unflinchingly hammered out by the professionals in child protection, is not simply a theoretical declaration, it has some extremely specific implications, for example by means of the formal procedure of (Best Interest Determination model) in the context of unaccompanied and separated children (Review 10/2008).

With regard to children deprived of their family, the best interest principle of the child also has particular implications on the implementation of the principle of subsidiarity in inter-country adoption and as a consequence, to the development of permanent solutions of a family type at the domestic level. Drawing on the CRC, the countries of origin are continually taking more and always better charge themselves of their children deprived of family. For example, to a greater extent domestic legislation now sets a maximum length for the placement of the child in an institution, at the end of which a solution that is permanent and preferably of a family type must be found (Review 10/2009). Additionally, countries like Chile, Brazil and also Lithuania, India or South Africa -- just to quote a few -- now

have a real culture of adoption developing and their number of domestic adoptions increasing each year. As a result, more and more children are finding an adequate solution within their own country, even in their own community, and in this way avoid certain traumas linked to being uprooted.

Another important breakthrough is that the CRC has greatly favoured and encouraged the participation of children who have lost their families in the process of being taken into care. Thus numerous domestic legislation, insists upon the consultation of children according to their evolving capacity before signing up to an alternative care measure. Furthermore, as explained in our January 2009 Review, several groups of young people have been established around the world to actively defend such rights.

### **The CRC at the origin of numerous other legislative developments**

On another record, the CRC is at the origin of fundamental legislative developments. On the one hand, being the most widely ratified international convention (only the USA and Somalia have yet to do so), most domestic legislation refers to it. On the other hand it is the basis of numerous other international instruments aiming at implementing one or another of its principles. With regard to the protection of children deprived of their family, THC-93 is the best example of expressing clearly the principles of the implementation of articles 20 and 21 of the CRC. The Guidelines for alternative care of children, which was co-drafted by the ISS and which was welcomed by the UN General Assembly on 20<sup>th</sup> November is a more recent example. These texts serve as formidable tools in the service of the professionals for the protection of children, by upholding and legitimising their actions.

### **The challenges which remain to be taken up**

These breakthroughs constitute real improvements for providing alternative care for children. Unfortunately there are still numerous challenges to be taken up in the realm of global child protection in order to be satisfactory. As for children deprived of their family, they are still too many of them growing up in institutions without the opportunity of a permanent family solution, equally in countries of origin and receiving countries. According to UNICEF, there are some two million in the world, of whom there are more than 800,000 in just the Region of Central and Eastern Europe Community of Independent States (CEE/CIS). In this context domestic

solutions for providing adequate care must still be developed in most countries. Sometimes the very base of the child protection system must be consolidated or even elaborated. But very often it is rather a matter of fulfilling existing possibilities for alternative care by imagining new solutions so as to respond to the whole package of children's needs. For example, South Africa has recently launched out in this way by setting up an innovative alternative referred to as cluster foster care (Review 10/2009). These developments need a good dose of creativity and open-mindedness as well as sufficient resources, both financial and structural (training, administration etc)

Among the other large scale challenges to be taken up, it is also a matter of taking better account of the best interests of the child in wider contexts. Therefore, when, in the framework of inter-country adoption the receiving countries bring pressure to bear on the countries of origin to adopt more children, the interest of the latter is threatened. This also occurs when a State carries out adoptions in a country where there are little or poor safeguards. As the ISS/IRC has underlined on numerous occasions in this bulletin, it is fundamental and urgent that considerable efforts be agreed upon by the receiving countries to better control their requests. In this context countries of origin will be able to concentrate on the protection of their children and finding them a domestic level solution as a priority

Despite the numerous challenges that remain to be taken up, the CRC has made it possible to accomplish spectacular advances in favour of the rights of the child. The changes that have occurred in the context of inter-country adoption in the course of the last 20 years are a brilliant illustration and enable us to envisage the future with optimism.

The IRC/ISS team  
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1. Progress for children –A report card on child protection, No 8, September 2009, UNICEF, p19 ([www.crin.org/docs/Progress for Children –No.8 EN 081309.pdf](http://www.crin.org/docs/Progress%20for%20Children%20No.8%20EN%20081309.pdf))