1994-2014: 20th Anniversary of the International Year of the Family

We wish you Happy Holidays and look forward to pursuing our cooperation for the rights of children deprived of a family in 2015!

EDITORIAL

The concept of 'family': The challenge of protecting children in and out of families

In the context of the 20th Anniversary of the International Year of the Family, ISS suggests reflecting on the family concept, its definition and meaning, and to address the complexities linked to this process through a series of articles on this issue. Undoubtedly, children's rights must be protected irrespective of the child's family situation and irrespective of the definition of 'family / families' that is adopted.

The International Year of the Family 1994 was proclaimed by the United Nations General Assembly in its Resolution 44/82 of 9 December 1989. At the time, its proclamation built on the belief that the family was the basic unit of society and therefore warranted special attention[1]. Twenty years later, this belief remains strong but it also remains as complex as ever to define a family and to develop comprehensive legislation, policies and practices, which fully respect children's rights, whilst also strengthening the family unit. In no way should these ongoing debates fuel justifications and arguments for breaching children's rights in any potential environment, which they are cared for in.

Families, a variety of forms and concepts

When the word 'family' is mentioned, a wide range of forms and concepts come to mind, depending also from which perspective and part of the world every one relates to. These are linked to the various aspects in which the latter develops: the legal provisions that govern the creation and termination of a family, the policies that may strengthen or undermine the family, and the practices that are implemented at local, domestic, regional and international level. One aspect is certain: the concept of family is at the heart of ongoing and current debates, and remains an issue of controversy among legal, political, social, religious, cultural and other communities (see pp. 7, 8, 9 and 14). Thus, this multiplicity has an important impact on alternative care and adoption, and is undoubtedly at the heart of the daily issues that ISS and most professionals in these fields face.

Indeed, ISS often encounters laws, policies, practices and debates that address the meaning of 'parents' and 'families', whether in the children's environment of origin, which may indeed include biological parents and the extended family, but may also include the wider community, or in the alternative care context, such as foster families, a range of local family-type options, domestic and intercountry adoptive

families, etc. Thus, ISS has had to face the ongoing tensions relating to reaching a definition of 'family' and, in general, the challenge of which families to support. Indeed, it is certain that all families need to be supported, but when financial, professional and other resources are limited, which 'profiles of' families provide the most suitable environment for children? How should informal care and extended families be supported in contexts in which adoption incentives may also develop? How should the limited resources be directed at biological whilst also at extended, foster and adoptive families?

The above-mentioned issues and the ramification and intricacy of the definition of the family were clearly reflected in the process of adoption of the 2014 Resolution on the protection of the family by the Human Rights Council[2]. Indeed, on the one hand, some speakers and views insisted on the States' obligation to protect the family as a natural and fundamental unit of society, therefore challenging the UNCRC and advocating for parental rights over children's rights. On the other hand, however, other civil society organisations fuelled the debates from the perspective that the said Resolution was strengthening the 'family', whilst undermining the individual rights of its members, in particular children, even though many violations of human rights continue to occur within the family. Furthermore, many organisations believed that the Resolution did not reflect the various forms and arrangements of family that exist nowadays and which are experienced by children worldwide. Finally, they felt that it should have emphasised more strongly the duty of States to protect children's rights in all settings, including the family. These debates were reiterated at a Panel held in the framework of the Human Rights Council session in September 2014[3], and are set to continue. The aim should therefore be to move beyond a consensual definition towards actions that protect families and children's rights irrespective of the environment they grow in (see pp. 7 and 8).

Families and children's rights
In its Preamble, the Convention on the Rights of the Child clearly states that the family is 'the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children', which is intended to be respected at domestic level (see p. 4). No clear definition of the family is provided in the Convention – the arguments of which may also explain why the debate remains ongoing and is set to continue – but as mentioned in the *Implementation Handbook*[4], 'the broad definition of family (…) reflects the wide variety of kinship and community arrangements within which children are brought up around the world'. Thus, it would seem that any concept of the family would be based on the social development of the latter, with no unique nor exclusive definition. Could we therefore speak of 'social' families, which may differ from the 'legally-recognised' family, i.e. a *de facto* family in some circumstances? In particular, Article 5 recognises that the family also includes the extended family and community when recognised as such in accordance with local, cultural, legal and/or religious customs. As summarised in the *Implementation Handbook*, the Committee has recognised that 'social trends have led to a range of family patterns' and has acknowledged an increase in 'child-headed and grandparent-headed households and families'. Thus, what the UNCRC seems to intend is a move away from a consensual – and perhaps controversial – definition in order to promote and focus on actions that protect families whilst also protecting children's rights, as these are full right-holders irrespective of their situation.

ISS's role in protecting families whilst also protecting children's rights
In this context, it remains essential for ISS to support families in order to ensure the rights of its members, in particular the children. Indeed, given the belief that families should be supported to prevent separation (see p. 16), to strengthen alternative forms of family care and to develop other forms of families that may respond to the needs and rights of children, ISS is committed to considering the family as a wide and all-encompassing concept, that reflects the ways, forms and experiences that exist worldwide. The human rights of its members must guide all actions in this direction, efforts and initiatives (see p. 18) must address the variety of causes that may

lead to human rights violations affecting the family members as well as the family as a unit, whether economic, social (see p. 11), political (see p. 9), cultural, religious, etc. The ISS will continue, in cooperation with its network and a wide range of interested partners, to work for families, whilst taking into account the rights of the children and other individuals, and whilst also believing strongly in the duty of States to protect them all against violations of their human rights.

Thus, children's rights and their best interests must remain a central objective of legislation, policies, programmes and practices that focus on families; therefore, should it not be the child, who should define and identify his family? A lack of consensus on a definition should never justify a breach of their rights based on the existence or lack of a family environment – a perspective shared with other organisations[5]. This year's anniversary of the International Year of the Family should therefore be an opportunity to further reflect on the needs and rights of all forms of families, and on those of all its members. The resulting actions must therefore be undertaken to ensure that families indeed remain 'the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children'.

The ISS/IRC team,
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