Call for Input: Human Rights Council resolution 54/6 on the centrality of care and support from a human rights perspective

Submitted by **Child Identity Protection**[1]

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Child Identity Protection (CHIP) is an association based in Geneva since 2020. It is the only international not-for-profit organisation solely advocating for the protection of children's identity rights in family relations and works with States and other stakeholders to promote universal birth registration and full knowledge of family relations, in line with **Articles 7 and 8 of the United Nations Convention on the Rights of the Child**. In this context, it strives to ensure that there is integrity, transparency and accessibility for every child's identity in **name, nationality and family relations** with expeditious restoration whenever elements are missing.

CHIP welcomes the call for inputs to inform the forthcoming report on **the centrality of care and support from a human rights perspective**, addressing, in particular, the human rights of women, persons with disabilities, children and older persons as caregivers, as well as receivers of care and support, and for their self-care from a gender equality and human rights perspective, with the objective of evaluating experiences, good practices and main challenges regarding the effective recognition of the rights of caregivers and those receiving care and support.

Given its expertise in **children's rights to identity and family relations, including in alternative care**,[2] CHIP hereby wishes to share approaches applicable to children at risk of being separated from their parents or caregivers and to children already in care and whose family reintegration is reliant on appropriate support to them and their families. The impact of support and care on their family relations is a cross-cutting issue, illustrated by promising practices of concrete implementation at domestic and local level, taking into account the variety of socio-economic, cultural and geopolitical contexts.

Question 1 – Examples, such as legal provisions, jurisprudence of courts and/or human rights mechanisms:
- **Human rights of unpaid and paid caregivers, including those who are women, persons with disabilities, children and older persons;**
- **Human rights of recipients of care and support, including those who are women, persons with disabilities, children and older persons;**
- **Human right relevant to self-care of caregivers and recipients of care and support, including those who are women, persons with disabilities, children and older persons**

Such recognition and protection may be made in relation to, but not limited to, the rights to work, social security, adequate housing, health, education, enjoyment of scientific advancement, legal capacity, equality in marriage, independent life in the community, rest and leisure, and the rights relevant to participation. It may include the recognition of care and/or support as human right(s) under the law.

Appropriate care and support to children and their families act as a prevention mechanism for family separation, as these may address the difficulties faced by families. These often represent a push factor for temporary or permanent separation and the placement in alternative care, *e.g.* poverty, single parenthood, disabilities, severe health issues, etc. Support to children and families therefore contributes to the enjoyment of Article 9 of the UNCRC and appropriate quality care should comply with the UN Guidelines for the Alternative Care of Children and the forthcoming Human Rights Council Resolution on inclusive social protection.[3] In this context, States should develop comprehensive legal, policy, programmatic and operational frameworks enshrining support to families with a view to preventing family prior to any removal and placement decision. At regional level, the centrality of support and care for children and their families has been enshrined, for example, in the Council of Europe's Recommendation on children's rights and social services friendly to children and families.[4]

Birth registration and inclusive social protection
The importance of birth registration is evident in this context as having a legal identity as pre-requisite to social protection and evidence of family relations and other components of children's identity.[5] Birth registration and social protection and assistance 'are two critical areas that are linked and have a significant impact on the lives of children and their families'.[6] Indeed, it addresses exclusion, the management and incentives of cash transfers and enhances coordination amongst sectors. In Mozambique, the Cash-Plus-Care child grant 0-2 programme incorporates birth registration as a core component of the Case Action Plan to vulnerable families.[7] In Nepal, the country's Child Grant Programme is a universal child benefit programme that requires the mother or primary caregiver to present the child's birth certificate for programme enrolment.[8] In Yemen, cash-plus social care services, including birth registration, are provided to marginalised minority groups living in slums.[9]

Access to targeted services
Such frameworks should be comprehensive so as to provide easily accessible social services of support as well as targeted services aimed at supporting children and families, as well as other caregivers, in particular complex situations, *e.g.* illness, disability, addiction, unemployment, etc., thereby acting as protective factors for children within their family environment. A wide range of services accessible at community and local levels will contribute to addressing the needs and situations of more children and families; so will the availability of a range of social assistance measures, such as allowances, cash-transfer mechanisms, minimum packages of support measures and targeted social assistance payments. In Norway, the Norwegian Child Welfare Services offers comprehensive services and programmes to support parents in different situations where their caring role is at risk.[10]

Examples of progressive legal frameworks also exist in this regard. For example, in Spain, the Law on the comprehensive protection of children and adolescence against violence[11] includes principles and measures aimed at prevention within the family environment, including measures to prevent risk factors and to strengthen protective factors (Art. 26). Estonia has also enshrined in its legislation the child's 'equal treatment' when ensuring the rights and well-being of the child (Art. 5) and has specifically addressed prevention in Article 6 of its Law: '(1) In order to ensure the rights and well-being of the child, the risks threatening the well-being and development of the child must be prevented. Prevention includes the perception of situations and events which threaten the child as early as possible and the reaction thereto, including the identification of the child's development and behaviour problems, problems occurring in the family environment, identification of abuse and the increase of protective measures promoting the child's well-being and development. (2) State and local government agencies shall, according to their possibilities, develop measures in order to prevent the child's need for assistance and to decrease the existing problems. The measures must be based on the child's needs, support the relations between the child and the persons raising the child, support the social performance skills and they must be accessible, timely, effective and have a long-term positive effect.[12] Policy and programmatic examples will be further explored below.

Question 2 – Concrete policy or programmatic measures taken to promote and ensure the rights of caregivers and recipients of care and support in national care and support systems, mentioned under Question 1 above. If possible, please indicate the impacts of such measures. Such measures may include, but not limited to, social security/protection, working conditions, human support, childcare, long-term care and support, health services, education, transportation, housing, water and sanitation, assistive devices, digital technology, deinstitutionalization, access to justice, governance, financing, monitoring and evaluation, and awareness raising.

A number of measures exist to promote a comprehensive child protection system including :

Professional decision-making
An initial safeguard in supporting and caring for children, their families and their caregivers is that **all decision-making be undertaken by a multi-disciplinary and professional mechanism**, as this allows for more comprehensive assessments and identification of the needs of all parties involved. Such mechanisms are not only central to decision-making related to support, care and potential family separation, but also to support, care and ideally family reintegration, as support and care should be provided to all parties to prevent separation and to sustain children's family reintegration, based on timely and periodic assessments (see below) and follow-up of the child's and the family's situation. For example, in Switzerland, there exists a legal requirement that for professional

and multi-disciplinary decision-making in child protection, but challenges have been identified in terms of proactive efforts to reintegrate children into their families linked to obstacles to accessing support by families at risk.[13]

Re-integration mechanisms

When preventive mechanisms have not been sufficient to prevent family separation, and children must indeed be separated from their parents or caregivers following a best interest procedure, there is a need for **States to offer suitable forms of alternative care to these children**, which take into account all their rights, individual needs and the provision of support to them and to their families, with a view to potentially overcome the reasons for separation and to aim at family reintegration (Sections VI and VII of the UN Guidelines for the Alternative Care of Children). In terms of programmatic measures, under the *Tubarerere Mu Muryango* programme in Rwanda, a large number of foster carers were trained and families received a social assistance package (educational support, medical care, counselling, clothing and livelihoods support).[14] In Switzerland, recent research undertaken by CHIP into coercive decision-making in foster care placements[15] revealed that support is not always accessible due to costs and availability of services and that support services that mitigate the effects of socio-economic precarity for fathers and mothers are limited. Furthermore, a legislative framework that goes beyond maintaining contact and targeted iniitiatives that promote reintegration by addressing the initial reasons for separation must be developed to ensure that decisions to separate chidren from their families are "justified". In response, a Guide for Swiss professionals on international standards relevant to foster care was prepared by CHIP and the University of Geneva,[16] and a forthcoming child-friendly guide will also address the availability and access to support in order to prevent family separation and ensure appropriate care.

Family-based care

When providing support and care, **family-based care – *e.g.* kinship care, foster care – should be explored as a priority**, and continuity in the child's family environment, language, culture and religion are generally a positive element to be sought, in line with Article 20 of the UNCRC and Para. 53 of the UN Guidelines for the Alternative Care of Children. In Australia, it is worth mentioning the availability of Aboriginal kinship care in Victoria, which not only promotes family relations and prompt family reintegration but also cultural continuity; these carers receive financial support depending on the needs and age of the child or young person in their care and a Care Support Help Desk is available to give tailored support to statutory foster and kinship carers caring for children and young people in their care.[17] As showcased in Family For Every Child's recent guide on how to support kinship care, there are numerous promising practices worldwide aimed at developing kinship care, supporting kinship carers and promoting family reintegration, *e.g.* advocating for kinship care in Ireland and Brazil, enhancing the financial and other support for kinship care in the USA and in England and Wales, New Zealand's 'Unsupported Child's Benefit as a weekly payment aimed at kinship carers, social protection for kinship carers in South Africa.[18]

Review of care

Timely and periodic assessments of their specific needs are necessary to adapt and provide appropriate and timely support as well as to identify the variety of these children's and their carers' needs on the medium- or long-term (Paras. 57-68 of the UN Guidelines for the Alternative Care of Children). In addition, alternative carers should also receive support in a variety of forms (*e.g.* preparation, counselling, allowances, respite) in order to ensure the child's protection under their care and to promote the child's potential reintegration into their family of origin (Paras. 56, 76, 103, 120 of the UN Guidelines for the Alternative Care of Children). For example, as the availability of respite care options for families of origin and foster families caring for children with disabilities is a means to sustain the quality of the child's care, in Kenya, the country's National Care Reform Strategy for Children 2022 – 2032 has called for the recognition of the specific needs of children with disabilities and special needs, including by strengthening respite care and day care for children with disabilities.[19] In Moldova, in 2018, the Government approved a minimum package of social services funded from the central budget and provided at local level, including personal assistance, family support for families with children and financial support for vulnerable families.[20]

All these initiatives have contributed to ensure stronger gatekeeping mechanisms preventing family separation and entry into alternative care, more appropriate and quality alternative forms of temporary care and increased opportunities for supported family reintegration.

Question 3 – Main challenges faced at the national level in creating robust, resilient and gender-responsive, disability-inclusive and age-sensitive care and support systems with full respect for human rights:

The provision of support and care to children and their families, as recipients and caregivers, should be considered a fundamental part of a comprehensive child protection system, in particular to prevent family separation but also as a positive factor to ensure successful family reintegration. Many States have faced the complexity of building and strengthening of a true child protection system, given the historical contexts of some countries, their geopolitical structure or their socio-economic conditions. This has had an impact on the existence, availability, access and equity in terms of provision of support and care services. Indeed, despite progress made in many countries, in others, there are still important disparities affecting the availability and access to support and care for children and their families. Amongst the grounds for such inequity, it is worth mentioning urban and rural disparities, gender-based discrimination (*e.g.* single motherhood), obstacles to obtaining a legal identity (*e.g.* complex birth registration, fees for birth certificates, exclusion of migrants, refugees or stateless persons) or discrimination on ethnic, linguistic and minority grounds as well as culturally-biased views and approaches to child care (*e.g.* remaining strong belief in the positive outcome of institutionalisation), which all entail a potential lack of access to services. For example, the consequences of discrimination against single mothers and the operation of Mother and Baby Homes was a widespread practice in Ireland for decades.[21] In Australia, the 'stolen generations' were the children of Australian Aboriginal and Torres Strait Islander descent. who were removed from their families by the federal and state government agencies and church missions,[22] to which a National Apology was later expressed.[23] In Eastern Europe and Central Asia, for decades under previous political regimes, States developed strong paternalistic and family policies that resulted in many children being placed unnecessarily in alternative care, although many of the latter have undertaken comprehensive care reforms with promising practices and positive results to this day.[24] Thus, whilst some countries have demonstrated strong leadership in the development of services to support children and families, implementation of the latter at regional or local level has proven more complex, depending on the local authorities' roles and responsabilities, funding and needs.

In addition to the existence and development of support and care services, the social workforce also plays a central role in assessing the needs of children and of their families and in identifying the resources that exist within their communities, at local level, and to facilitate their access to the latter. The strengthening of the workforce in the provision of support and care is fundamental to prevent family separation, as their role entails building trust between all parties, following up on the situation, promoting family reintegration when separation has occurred and identifying potential collaboration amongst services, authorities, civil society and sectors (*e.g.* social protection and assistance, health, education, security, etc.) and to professional, appropriate, prompt and individualised support. Governmental workforce development and strengthening has been fundamental in several countries, which still relied quasi exclusively on the intervention of non-governmental actors in the provision of support and care, often with little official oversight and control of quality as to their practices. Thus, the strengthening of the capacity of professionals in this field has been a challenge overcome progressively by several countries. For example, in Cambodia, a milestone in the strenthening of the child protection and alternative care system was the launch of the Action Plan for Improving Child Care and the safe return of 30 per cent of children.[25] This instrument set the framework for more solid family reintegration, based on professionals working at community level with families at risk or alternative caregivers, identifying their needs and the potential resources available to them within their communities, and facilitating their access to the latter. In addition, the 2018 Capacity Development Plan for Family Support, Foster Care and Adoption 2018-2023 intended to set out specific recommendations for promoting family-based care, and the empowerment of parents and carers to prevent family separation.[26] In several countries, the network Changing The Way We Care has demonstrated the importance of strengthening the social workforce and ensuring its due recognition by all actors in the field, at central and local level.[27] In Rwanda, over 30,000 community volunteers, known as IZU, were trained as part of the above *Tubarerere Mu Muryango* programme and play a crucial role in monitoring the wellbeing of children returned to family care and in collaborating with government personnel.[28]

Question 4 –

- ▪ **Data disaggregated by sex/gender, age, disability, and if possible also by other grounds, including income, race/ethnicity, geographic location, migratory status and other characteristics;**
- ▪ **Information on people who are in vulnerable situations and/or who face intersecting forms of discrimination, such as single parents, widows/widowers, children deprived of family environment; persons with disabilities and older persons in care institutions; as well as those who are affected by humanitarian crises, armed conflicts, disasters; living in poverty; living in rural areas; migrants, refugees, asylum seekers; belonging to minorities or indigenous communities; and those who are deprived liberty.**

According to UNICEF, the rate of children in residential care per 100,000 population aged 0-17 years is of 105 at global level. However, there are noticeable disparities from one region to another, with the highest rate in Europe and Central Asia (232) and the lowest in South Asia (75).[29] Children in residential care do not represent all children in alternative care, but are representative of those most at risk of not having their individual needs taken into account, of not receiving appropriate and quality care and whose families are most vulnerable to be left behind in access to support. It is also worth mentioning that the resort to residential care is particularly common for children with disabilities – who are unfortunately over-represented in these facilities –[30] and whose families have not been provided the support and targeted services required for their appropriate care.

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[1] Child Identity Protection (CHIP) is an association based in Geneva since 2020. CHIP is the only international not for profit organisation solely advocating for the protection of children's identity rights in family relations. It works with States and other stakeholders to promote universal birth registration and full knowledge of family relations, and seeks to support the efforts currently led by the UN Legal Identity Agenda Taskforce and other actors to protect children's identity rights in relation to birth registration and nationality. See: https://www.child-identity.org/en/. For any additional information, please contact: Christina Baglietto, christina.baglietto@child-identity.org.

[2] See, e.g.: Dambach, M. (2022). Policy Brief 2 : Child's right to identity in alternative care. Geneva, Switzerland: CHIP. Available at: https://www.child-identity.org/images/files/CHIP-Policy-Brief-AlternativeCare-EN.pdf; CHIP's Inputs to the Council of Europe's Committee on Migration, Refugees and Displaced Persons' 2022 Protection and alternative care for unaccompanied and separated migrant and refugee children. Available at: https://pace.coe.int/en/files/30076; CHIP (2023). Submission for hearing on "Abusive practices on depriving children from their family environment" to held by Committee on Social Affairs, Health and Sustainable Development within PACE, Council of Europe - Paris 19/09/2023. Available at: https://www.child-identity.org/images/files/CHIP-BriefingNotes-AbusivePractices.pdf; CHIP's Submission to the Committee on the Rights of the Child's Day of General Discussion in 2021. Available at: https://www.child-identity.org/images/files/2021_DGD_ChildIdentityProtectionENG.pdf; CHIP (n.d.). Research project: Coercive decisions in Switzerland through the lens of international standards: foster care placements. Available at: https://www.child-identity.org/index.php/en/research-decision-making-fostering-adoption.html.

[3] Forthcoming at the Human Rights Council's 55th regular session; available at: https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session55/res-dec-stat. Side events were held in the framework of this resolution and focused on right of children to be cared for in a loving and supportive family, social protection for children with a disability and social protection of children in humanitarian situations and on the move, as well as sharing pilot projects and opportunities to scale up these initiatives. See: CHIP. March 2024, World : Child's right to inclusive social protection at the human rights council. Available at: https://www.child-identity.org/en/resources/advocacy-and-policy/1277-march-2024-world-childs-right-to-inclusive-social-protection-at-the-human-rights-council.html.

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[8] Promising Practices - Inclusive Social Protection and Children's Rights. Ensuring Children's Access to Birth Registration and Social Protection: A win-win situation for both sectors. Bhaskar Mishra, Global Technical Lead on CRVS and Legal Identity, UNICEF. 15th March 2024.

[9] Promising Practices - Inclusive Social Protection and Children's Rights. Ensuring Children's Access to Birth Registration and Social Protection: A win-win situation for both sectors. Bhaskar Mishra, Global Technical Lead on CRVS and Legal Identity, UNICEF. 15th March 2024.

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