



29th June 2011 – Position Paper on: **Family**

Introduction

The Association Comunità Papa Giovanni XXIII is an international faith-based Non Governmental Organization recognized by the Pontifical Right, and accredited to ECOSOC in 2006 with a Special Consultative Status. Present in 27 countries and on five continents, the members of the Association share directly their lives with the least in society, and are committed to removing the causes of injustice, poverty and marginalisation worldwide.

The Association is on the forefront in the promotion of the rights of children in a comprehensive approach: family, education, life, and health.

This paper reflects the position of the Association Comunità Papa Giovanni XXIII on the above-mentioned matters.

Family

1. The Natural Family

For the Association Comunità Papa Giovanni XXIII, one of the most important areas of focus is children and their families.

Every child is a juridical person with rights, privileges and responsibilities, but, considering his/her status, it is necessary to take adequate care of his/her physical, psychological and spiritual needs from conception to adulthood.

Family is the natural environment for the child's education and growth; thanks to a family, a child can experience the love of a mother and a father; in a family, a child spends most of his/her time and develops the fundamental characteristics of his/her personality. The spirit of the Convention on the Rights of the Child accepts all the values above-mentioned, but it does not establish a general right to have a family. The Association Comunità Papa Giovanni XXIII is advocating in order to introduce this new right in the international legal context: in fact, the child's right to have a family is not only a birthparents' commitment, but also a commitment of institutions and Governments. The right to have a mother and a father is as essential a right as the right to life.

The family is the first shield against every form of violation of his/her rights that a child has. Children without parental care are more exposed to violence, discrimination, sexual exploitation, child abuse, traffic in human organs, and any form of maltreatment. States have to guarantee and protect the right of a child to have a family and to support and protect those persons who take care of children.

Worldwide there are several models of family, marriage, and social structure, but every model adopted has to be evaluated in the light of the best interest of the child. A child is in great need to have a maternal and paternal figure - a woman and a man - that are able to take care of and to love him/her. Those figures have to be tied steadily together in an unequivocal and confirmed bond based on civil or religious agreements, in order to make it still more stable.

States have to guarantee the stability of this union.

*[...] the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community [...]*¹

¹ Preamble of the Convention on the Rights of the Child.

In a family, the central role is played by parents. Relatives, educational institutions, recreational places, associations of volunteers, religious institutions, and Governments have to support them without taking their place. These structures and networks should substitute in the parents' role only if there are proof of violence, abuse and/or exploitation. On this matter, one of the commitments of the Association is to prevent the child's detachment from his/her original family.

Economic and cultural poverty, diseases such as AIDS, a poor social context, and the uprooting from birthplaces are conditions that diminish the capacity of a family to love and support its children, increasing the risk for them to be exploited, in particular sexually exploited, and involved in criminal acts. The weakness and poverty of the family are phenomenon that have to be faced through specific and participating policy-making directed to support and strengthen the role of family at the local, regional and national levels. The natural family, if adequately supported, has all the potential to preserve its parenthood responsibilities. Therefore, the first action has to be addressed to the child's natural family in order to help it to overcome those economic, social and relational difficulties that stop it from carrying out its tasks. Some actions promoted by APG23 in relation with the application of the above-mentioned concept are:

- xxiii Adoption by Distance** – This project is aimed at giving financial support to families in need, guaranteeing them the economic resources for food, education and health. Thanks to the project of adoption by distance, several families are able to take care of their children, avoiding their detachment.
- xxiii Daily Centres for Children in Need** – These centres are aimed at welcoming children in order to involve them in educational, recreational, and musical activities during the daytime, and at helping families to develop their parental capacities through mutual-aid- and listening-groups.
- xxiii Daytime Foster Care** – This project is directed to entrust a child to a family which can take care of him/her in place of the natural family, which cannot do it due to work-commitments or other serious reasons.

2. The Substituting Family

- 1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.*
- 2. States Parties shall in accordance with their national laws ensure alternative care for such a child;*
- 3. Such care could include, inter alia, foster placement, kefalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.²*

There are some cases in which the natural family of a child is not able to provide for him/her education and growth. Even if family-care policies suffer from a lack of capacities to reach their goals, the right of a child to have a substituting family holds over, and fostering a child with a family is the key-process to achieve it.

The above-mentioned process has the characteristic of provisionally giving a child a substituting family and, at once, putting forward concrete measures in order to recover the natural family and allow it to welcome back its child. In order to have concrete and well-directed measures, it is necessary to provide for funding plans oriented to support families in need. Even affirming the right of a child to have a substituting family, it is also important to emphasize the temporary aspect of such a measure.

APG23 sees the substituting family as a presence of at least one parental figure that lives permanently with the child and is available to have a stable and continuous emotional relation with him/her. Other foster homes or structures that do not have these characteristics, such as foster institutes and/or group homes, cannot meet all the needs

² Article 20 of the Convention on the Rights of the Child.

that children ask for: a child needs to maintain a relationship with his/her natural family, even if he/she is fostered.

The Association Comunità Papa Giovanni XXIII, beyond direct commitments on fostering, networks with other institutions and organizations in different countries to promote:

- xxiii** Awareness campaigns on family fostering, in order to present fostering as a concrete measure to provide care for abandoned children;
- xxiii** Training sessions, counselling and support for foster families;
- xxiii** Advocacy campaigns to urge States to recognize the foster family as a principal instrument for children's reception, encouraging States to draft national plans focused on families, in view of going over other current measures;
- xxiii** Definition of minimum standards for foster families and home families.

The Association offers to children a substituting family through:

- xxiii Foster Families** – According to the APG23 experience, a foster family is a unit which is available to parent both natural and fostered children. In this case, it is not necessary to create a new institution, but it is necessary to recognize, enhance, and support the idea of “family”. A natural family opened to foster other children is the key to create an environment of welcoming, overcoming every kind of institutions. In fact, according to the experience of the Association, in several States the promotion and support of foster families is less burdensome than the improvement of foster institutes, in particular considering the child's future social maladjustment.
- xxiii Home Families** – “Home family” is a unit in which there is a stable presence of adults, usually a consecrated man or woman or a married couple with or without children. They act as parents welcoming children without a natural family, guaranteeing them affection, education, assistance, maintenance, and hospitality through a family day-life and personalized relationships.

3. National and International Adoption

The birthplace's environment is fundamental for the growth of every child: it has the role to build emotional, social, and psychological structures that characterize the life of everyone. The APG23 point of view is that the international adoption is felt by a child as a trauma, especially because his/her path for being involved into a new cultural environment is often too much rapid. Many children lose their capacity to read the new reality that he/she has to face, feeling it too difficult and risking social ostracism. In those cases in which a child is eager to be involved in a new environment, he/she is often urged to forget his/her roots, repudiating them and his/her natural family.

It is matter of fact that an adopted child, with his/her growth, feels the need to know, meet, and, sometimes, to come back to his/her natural family. Even if it is important to consider the love that a foster family is able to give, it is also important to consider all the desires of a child, and under this point of view the Association notices profound gaps in national legislation. This is the reason why the Association Comunità Papa Giovanni XXIII sponsors the idea of an opened or semi-opened adoption, in which a child, autonomously or through social workers, can maintain a relationship with his/her natural parents.

Based on APG23's deep experience in this field and the political dynamics that APG23 meets in those countries in which it operates, the Association considers the adoption as a valid choice if:

- xxiii** The adoption is provided to the child in the same environment and culture in which he/she is born and offers the possibility to maintain relations with his/her natural family, even if at the minimum level;
- xxiii** A child already fostered in a family and from the age of 10 specifically asks to be adopted;
- xxiii** A child is abandoned since his/her birth and he/she is not recognized by his/her natural parents.

4. APG23 Recommendations

With reference to the system of national and international adoptions and to the policies that involve the role of the family, the Association Comunità Papa Giovanni XXIII would like to recommend to States, civil society representatives, and other key stakeholders the following:

- xxiii** To promote policies of financial support directed to strengthen the economic autonomy of families, avoiding measures of passive dependence on assistance through, for example, projects of microcredit, in order to prevent neglect or separation due to negotiable reasons. In this case, it is necessary to give particular attention to one-parent families;
- xxiii** Following the principle of subsidiarity and of the best interest of the child, to establish a dialogue between persons in need and national agencies involved in the promotion and protection of the rights of the child, such as welfare services, juvenile courts, foster families, and associations. This measure should be directed to enhance the role of every stakeholder, harmonizing it with the others, and to assure a continuous training in order to reach common and integrated approaches;
- xxiii** To recognize foster families and/or home families as preferential responses to the needs of those children abandoned by or without their natural parents, adopting legislative measures and promoting awareness campaigns on foster care following the principles of the UN Guidelines on Alternative Care for Children Without Parents;
- xxiii** Being aware of the lack of current international legislation on international adoption on preventing the child neglect, to strengthen monitoring measures on and national resources of countries at risk in full respect of their cultures;
- xxiii** To establish, in dialogue with the relevant stakeholders, a national roster of families available to foster children, with the aim of avoiding institutionalisation of children below 6 years of age;
- xxiii** To establish a national ombudsman in order to create and/or improve a network focused on the protection and promotion of the rights of the child, providing it with appropriate economic and human resources;

- xxiii** To enhance existing models of solidarity, such as examples of mutual assistance between families for the education and care of children.

APG23 Advocacy Before the United Nations

The Association Comunità Papa Giovanni XXIII is accredited with Special Consultative Status to the Economic and Social Council of the United Nations Organization since 2006, and in April 2009 it opened an APG23 Representation to the United Nations in Geneva. The Association participated in numerous events, such as meetings of the Human Right Council, the Universal Periodic Review, the World Health Organization, ECOSOC High Level Segments and Annual Ministerial Reviews, the UNAIDS Programme Coordinating Boards, and the Committee of the Rights of the Child in order to advocate for new policies directed to assure the respect of human rights for all. The AGP23 Representatives met and are still meeting officers of Governments, the United Nations, and of other International Organizations, and thanks to this network it was able to organize or be involved in several family-related meetings, such as:

- xxiii** Day of General Discussion of the Committee on the Rights of the Child (17 September 2004, Geneva, Switzerland), Written Statement submitted by APG23 entitled *Implementing Child Rights in Early Childhood*;
- xxiii** Day of General Discussion of the Committee on the Rights of the Child (16 September 2005, Geneva, Switzerland), Written Statement submitted by APG23 entitled *Children Without Parental Care*;
- xxiii** *Celebration of the 20th Anniversary of the Adoption of the Convention on the Rights of the Child* (Committee on the Rights of the Child – 8-9 October 2009, Geneva, Switzerland), Joint Written Statement entitled *The Roots for the Full Development of the Child Lie Within the Family* promoted by APG23 and co-signed by the Association Points Coeur, and the International Catholic Child Bureau.