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TITLE

**FUNDAMENTAL RIGHTS OF CHILDREN AND THE ROLE OF
TRUSTEESHIP AND GUARDIANSHIP BODIES IN PROTECTING
CHILDRENS RIGHTS**

STUDENT'S NAME

ZOYA KARAPETYAN

SUPERVISOR'S NAME

PROF. ARMAN ZRVANDYAN

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LIST OF ABBREVIATIONS

UN United Nations

GT Guardianship and trusteeship bodies

RA Republic of Armenia

UNCRC United Convention on the Rights of the Child

Committee UN Committee on the Rights of the Child

GTC Guardianship and trusteeship commission

Introduction

"Children are one third of our population and all of our future."

Select Panel for the Promotion of Child Health, 1981

As defined in the UNCRC children as human beings—as individuals are entitled to rights like all others. Furthermore, children are part of a community and that the community must ensure that it is promoting the safe and healthy development of all children.

The maturity of any modern society is measured by its attitude towards the elderly and children. The main obligation of the state therefore is to protect the most vulnerable segments of its social fabric.

Building a protective environment for children involves eight essential components:

1. Strengthening **government commitment** and capacity to fulfill children's right to protection;
2. promoting the establishment and enforcement of adequate **legislation**;
3. **addressing harmful attitudes**, customs and practices;
4. encouraging **open discussion** of child protection issues that includes media and civil society partners;
5. developing children's **life skills, knowledge and participation**;
6. **building capacity** of families and communities;
7. **providing essential services** for prevention, recovery and reintegration, including basic health, education and protection;
8. establishing and implementing **ongoing and effective monitoring, reporting and oversight**.¹

¹ UN Child Protection Information Sheets, May 2006 see at http://www.unicef.org/publications/files/Child_Protection_Information_Sheets.pdf [last access: 2 April 2016]

In the current reality of the childrens protection mechanism in Armenia evidently most of the components of the abovementioned list are mainly in need of development and close review.

The protection of childrens rights in Armenia is implemented on the basis of legal norms provided by the legislation of the Republic of Armenia, however in practice it is difficult to say whether the bodies responsible for the protection of those rights have appropriate capabilities and whether the current regulations are enough for their effective functioning.

On the 20th of February 2016 during an interview with the head of the Family, Women and Children Department of RA Ministry of Labor and Social Affairs Geghanush Gyunashyan an extraordinary case was presented about four children living in the town of Vardenis, one of them blind from birth, with no father and a mother with mental disorders. The living conditions of those children were horrific and their everyday food consisted of garbage leftovers. The GT bodies of Aragatsotn region refused to deal with the case with the reasoning of lack of time and difficulty with communication with the family. The case therefore reached the RA Ministry of Labour and Social Affairs.

The scope of the functions of the GT bodies in the Republic of Armenia in the sphere of protection of childrens rights is broad, however the methods of implementation of the functions of those bodies do not have proper regulations.

One of the current biggest problems of the sphere of protection of childrens rights in Armenia is the development of the current three-level system of protection of childrens rights: the highest tier being the National Commission for the Protection of Child Rights (hereinafter NCPCR), the middle tier of the system- the divisions of regional administrations dealing with the issues of the protection of the family, woman and child since 2006 and the third tier being the GT bodies.

In one of the judicial cases in the Republic of Armenia an opinion was expressed that “There is no professional approach from the Commission of guardianship to the job, every employee of the Commission should have special knowledge and experience in working with a child, which unfortunately we do not have. There are only a few commissions that do their

studies in an objective and comprehensive way and give a conclusion which derives from the interests of the child.”²

In 2012, 45 non-governmental organizations submitted a shadow report to the Committee, which raised the issues faced by this three-tier system of protection of children's rights. In the report the GTCs were described as being the weakest tier of the three-tier system with merely formalistic activities.³

The RA Government adopted a strategic programme for the protection of the rights of the child 2004-2015. This essentially addressed the inefficiency of the activities of the GT commissions, which have a key part to play in the system of child rights protection, the shortcomings of the activities of the NCPRC and the ineffectiveness of the units within the RA Regional Administrations for the protection of the rights of the family, women and children.⁴

With the raising importance of the protection system of children, it is becoming essential to establish a powerful mechanism of functioning of the three-tier system currently existing in RA and thus the main aim of this paper is to highlight the problems of the functioning of GT bodies, and to propose possible solutions considering the current economic, political and social situation of RA as well as best international practice.

The first part of the paper is dedicated to RA legislation on the protection of children's rights, including international commitments which is followed by a short description of the GT bodies in Armenia, indications of existing problems in the activities of GT bodies and recommended solutions in the second part. International best practice describing the social care system of two countries: Finland and the US is presented afterwards with comparisons between foreign practice and legislative regulations of Armenia, including recommendations on the

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<http://hetq.am/arm/news/55617/erekhaneri-khnamakaluty-an-institutn-ankatar-e-ov-petq-e-apahovi-mor-tesakcutyun-y-ordu-het.html/> [last access: 22 April 2016]

³ Save the Children Armenia “Child Rights Situation: Armenia” Yerevan, 2015 see at <https://armenia.savethechildren.net/sites/armenia.savethechildren.net/files/library/book-eng.pdf> [last access: 2 April 2016]

⁴ Id at page 16

possible development of the current RA system by taking a step closer to the US and Finland practice.

CHAPTER 1

Study of Armenia's legislation and international commitments in the sphere of fundamental rights of children

RA Constitution

In the Republic of Armenia children have rights from the date of their birth, which are regulated by international agreements as well as national legislation. According to article 8 (1) and (2):

“The Constitution of the Republic of Armenia is the legal basis of the legislation of the Republic of Armenia”.

“The Constitution of the Republic of Armenia has supreme legal effect, and its norms have direct effect. Laws must comply with the Constitution. Other legal acts must comply with the Constitution and laws.”.

The Constitution of the Republic of Armenia (hereinafter, RA Constitution) has been adopted through a referendum on July 5, 1995 and Amendments to the Constitution of the Republic of Armenia were introduced through a referendum on November 27, 2005. There was only one vague article on children's rights in the 1995 Constitution, however in 2005 in the chapter of fundamental human and citizen's rights and freedoms the articles on children's rights were incorporated.

In 2015 a new Constitution was adopted, the first three chapters of which are currently in force. In the second chapter of fundamental human and citizen's rights article 36 states the rights and obligations of parents in terms of taking care of the rearing, health, comprehensive and harmonious development and education of their children. Article 37 clearly stipulates the rights of children:

“A child shall have the right to express his views freely, which shall be taken into consideration in matters concerning the child in accordance with his age and maturity.” In the 2005 Constitution there was no such article.

Another important provision was added in article 37 (2) of the 2015 Constitution, according to which:

“In matters concerning the child, the interests of the child shall get primary attention.”

This is an important article in terms of the UNCRC as all the norms of the UNCRC clearly derive from the provision that the best interests of children must be the primary concern in making decisions that may affect them. The constitutionality of the abovementioned stipulation highlights its crucial role, as well as acts as an indication that all other legal acts should comply with it and the basis of all provisions should be the interests of the child.

In chapter 3 of the 2015 Constitution article 86 stipulates as a main objective of State policy the process of ensuring conditions required for the development of individuality of children, their physical, mental and spiritual development. **Stating the main objectives of State policy is crucial in terms of understanding the obligations of the State and the main goals towards the fulfillment of which the obligations are intended to.**

Legislative gaps and problems

In a report drafted by United Nations Country Team (UNCT) in Armenia for the period of second half of 2010 to mid-2014 it is provided that:

“despite the improvements in the legal framework relating to children’s rights the delayed adoption of some of draft legislations has harmed the full and effective realization of children’s rights in many areas. The Committee was also concerned about the inadequate implementation and enforcement of existing laws and regulations in the area of children’s rights due to the lack of financial, technical and human resources.”

The RA law “On the Rights of the Child” stipulates the rights of children, as well as the obligations of State bodies in terms of protecting children’s rights. The law lacks an important provision: definition of child’s best interests. Moreover, the term best interest is not even present in the law. An example of a provision which provides interest of children is article 12:

*“Each child has the right to recognize its parents and to reside together with them, with the exception of those cases stipulated in the legislation of the Republic of Armenia, when by the Court order the separation of the child from the parent or parents is considered to be prerequisite for the sake of the **child's interests**.”*

The RA law “On the Rights of the Child” does not have a provision which stipulates child’s right to be heard. Under UN law, children’s right to express their own views freely in all matters affecting them has been recognized as one of the general principles of the Convention on the Rights of the Child.⁵

Article 12 (2) of the UNCRC prescribes that the child must be provided the opportunity to be heard in any judicial and administrative proceedings affecting her or him, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law. The UN Committee on the Rights of the Child stressed that States Parties should either directly guarantee this right, or adopt or revise laws so that this right can be fully enjoyed by the child.

Currently the Family Code is the only legal act which prescribes that in certain cases affecting the child, the opinion of the child who reached the age of 10 shall be considered. Considering the provisions of the UNCRC, it would be beneficial to provide a child’s right to be heard as a separate article in the RA law “On the rights of the child” and to also provide other circumstances such as:

“In case the judge has legitimate doubts that the child is unable to express its opinion, the court shall appoint a forensic examination to find out the child’s personal development extent”.

In Armenia the process of finding missing children is not regulated by any of the current legislation which relates to children protection. Under UN law, Article 25 (1) (b) of the International Convention for the Protection of All Persons from Enforced Disappearance stipulates that states must prevent and punish the “falsification, concealment or destruction of

⁵ “Handbook on European law relating to the rights of the child” 2015 see at http://www.echr.coe.int/Documents/Handbook_rights_child_ENG.PDF [last access: 28 April 2016]

documents attesting to the true identity” of children that are themselves or whose parents are subjected to enforced disappearance.

It is important to incorporate the responsibility of GT bodies in the RA “Law on the Rights of a child” as well as possibly the GT bodies’ charter. It should be noted that there is one main responsible body for child's placement in care and that is the GT bodies along with social workers of territorial agencies and the relevant department of the regional government, as they represent the professional force. Even if the child is already in orphanage., the remainingbodies should be working in the same direction, but their responsibility for their actions should be emphasized, otherwise there is a risk that the responsibility will again be blurred between various institutions as it is now.

Though Armenia is party to more than 50 Human Rights Conventions and Protocols, in general, awareness of International Human Rights Instruments and country’s HR obligations is very low among the respective national institutions, including the judicial and law enforcement sectors. As a rule, the provisions of the UN HR Treaties are not referred to or applied in the court decisions.⁶

The Optional Protocol to the UNCRC on a Communications Procedure is not ratified by Armenia. The Protocol entitles individuals and groups of individuals to file communications with the UN Committee on the Rights of the Child on the violations of the rights prescribed by the UNCRC and the two Optional Protocols thereof.⁷

Some elements of Armenian legislation, stemming from the impact of difficult social and economic conditions, create obstacles to the complete implementation of the rights of the child. Among the serious drawbacks in the legal framework, with regard to children, is the inadequacy of the infrastructure ensuring the implementation of the legislative acts, as well as the existence of various administrative directives and bylaws which, at times, conflict in nature and in meaning.⁸

There are a number of laws which, although adopted within a short period of time of each other, limit each other’s scope. These are, for example, the “Law on Medical Aid and Services” and the “Law On the Rights of the Child.”⁹

⁶ Supra at note 5

⁷ Supra at note 3

⁸ Supra at note 5

⁹ Supra at note 4

Different terminologies defining the status of the child are used in the Armenian legal acts, e.g. children without parental care, individuals belonging to the category of children without parental care or children in difficult life situation, foundlings, and children in unfavorable and extreme situations, children with special needs. Most of these concepts are not defined in the RA Family Code which causes complications and varying interpretations in practice.¹⁰

National legislation, international commitments

Armenia has acceded to a few international treaties on the rights of children however one of the most important ones is the *UN Convention on the Rights of a Child* which has entered into force on the 2nd of September, 1990 and Armenia acceded to the Convention on the Rights of the Child in 1992.

The UNCRC is the most widely ratified human rights treaty in history. It sets forth a wide range of provisions that encompass civil rights and freedoms, family environment, basic health and welfare, education, leisure and cultural activities and special protection measures. The Convention has several "foundation principles" that underpin all other children's rights. These include: non-discrimination; best interests of the child; right to survival and development; and views of the child.¹¹

The accession and subsequent ratification of the Convention by Armenia set the start of the process of reforming legislative framework in the newly independent country as well as paved the way for the child care reform. However the principles of the UNCRC only give definitions of the basic rights of the child and are declarative in nature; therefore it is necessary to stress the importance of the Armenian law "On the Rights of the Child".¹²

¹⁰ World Vision Armenia "Alternative Report to the Republic of Armenia 3rd and 4th on execution of the United Nations' Convention on the Rights of the Child joint regular reports" 2012 see at <http://www.wvarmenia.am/en/publication/download/11> [last access: 2 April 2016]

¹¹3 UNICEF "Children have rights", June 2003 see at http://www.unicef.org/why/why_rights.html [last access: 2 April 2016]

¹² UNICEF "NATIONAL PLAN OF ACTION OF THE REPUBLIC OF ARMENIA FOR THE PROTECTION OF THE RIGHTS OF THE CHILD 2004-2015" Yerevan 2015 see at <http://www.unicef.org/armenia/NPAeng.pdf> [last access: 2 April 2016]

The Law on the Rights of the Child was adopted in 1996 and was developed based on the provisions of the UNCRC. A year later, in 1997 Armenia submitted its first periodic report on the situation of children to the Committee on the Rights of the Child.

In 2003 the Government of Armenia adopted the 2004-2015 National Plan of Action for the Protection of Children's Rights and the State Strategy for the Reform of Child Care Institutions System. The same year a new Criminal Code was adopted with inclusion of provisions on child trafficking and abuse. The ten-year National Plan of Action for the Protection of Child Rights was adopted in order to realize pledges to fulfill children's rights made during the 2002 UN Special Session on Children. It paved the way for the establishment of a "protective environment" for children in this country.

In 2004 Armenia ratified the revised European Social Charter. The same year a new Family Code was adopted, providing for rights of children in difficult circumstances and setting a legal base for the introduction of foster care.¹³

In 2006 Armenia ratified two Optional Protocols to the Convention on the Rights of the Child as well as two ILO Conventions pertaining to child labor and in 2007 Armenia ratified the Hague Convention on Inter-Country Adoption and signed the Convention on the Rights of Persons with Disabilities.¹⁴

Furthermore, children's rights are regulated by the Family Code of RA. the law on Child's Rights which applies to all individuals in the Republic of Armenia under the age of 18 and even though it is an old legal act that entered into force on 27th of June, 1996, it is still the only law regulating solely the sphere of protection of children's rights in the Republic of Armenia.

Armenia has also developed institutional and policy measures relating to the protection and promotion of the rights of the child: the National Programme for the Protection of Children's Rights for 2013-2016; the Programme of State Support to Graduates of Child Care Institutions for 2004-2015; and the Programme on deinstitutionalization of children for 2004-2015.¹⁵

¹³ UNICEF Armenia Media Centre "20th Anniversary of CRC: Progress Made" see at http://www.unicef.org/armenia/media_13410.html [last access: 2 April 2016]

¹⁴ Id

¹⁵ Supra at note 3

A new law has entered into force on the 1st of January, 2015: law on Social Assistance which mainly regulates the care for children without parents. The Law on Social Assistance strengthens the mandate of case managers in child protection with new roles in adoption, guardianship and foster care.¹⁶

CHAPTER 2

“The family being the fundamental group of society and the natural environment for the growth, well-being and protection of children, efforts should primarily be directed to enabling the child to remain in or return to the care of his/her parents, or when appropriate, other close

¹⁶ UNICEF “Annual Report 2014 Armenia” see at http://www.unicef.org/about/annualreport/files/Armenia_Annual_Report_2014.pdf [last access: 10 March 2016]

family members. The State should ensure that families have access to forms of support in the care-giving role”.

UN Guidelines for the Alternative Care of Children

Current role of RA GT bodies and effectiveness of their functions

In the territory of RA GT bodies are heads of communities. In Yerevan community on behalf of the Mayor the powers of guardianship and trusteeship bodies are implemented by the heads of administrative districts of Yerevan. Guardianship and Trusteeship Committees (hereinafter GTC) are created adjunct to the GT bodies.¹⁷

Articles 134-136 of the RA Family Code, as well as articles 33-42 of RA Civil Code stipulate the process of implementation of functions of GT bodies.

According to article 36 of the RA law on Social Assistance the RA government has adopted a decision on establishing regulation on interagency social cooperation the purpose of which is the identification, drafting and implementation of individual social programs and ensuring continuous supervision of persons (families) in need of social aid. The GT bodies are also subject to this regulation.

Guardianship and trusteeship is established for children left without parental care. The difference between guardianship and trusteeship is that guardianship is established for children below the age of 15, and trusteeship is established for children at the age of 15-18, moreover when the child becomes 15 years old his/her guardian becomes his/her trustee without any decision of authorized body.

The number of children in each form of formal care for 2008 is presented in a chart of study named “Towards Alternative Child Care Services in Armenia: Costing Residential Care Institutions and Community Based Services” prepared by UNICEF in 2010. The chart shows that

¹⁷ Charter of GT bodies in force from March 5, 2011 see at <http://www.arlis.am/DocumentView.aspx?DocID=65976> [last access: 20 March, 2016]

from 6386 children the number of children under guardianship is 1800 which is the first highest number of children in formal care following 1588 children in MOE special boarding schools and 1143 in local special boarding schools. Consequently, taking into account the fact that children under guardianship are the first in the chart, the functioning of GT bodies and GTC should be developed and enhanced in order to meet the interests of children and to monitor the guardianship process.

The GTC are vested with authority to make decisions about the care and placement of the children that have found themselves in difficult life circumstances. Such bodies existed back under the Soviet system and their activities were resumed in 1999, while respective legal regulations were enforced only in 2006.¹⁸

In RA trusteeship and guardianship is established on a pro bono basis and for that reason guardians/trustees of children are usually their relatives, close friends of their parents, neighbors etc. Guardianship and trusteeship is the most frequent option of organizing care of children left without parents.

By its decision No 164-N dated 24 February 2011, the RA Government approved the statute of the guardianship and trusteeship bodies, which prescribes in detail not only their functions, tasks and cooperation with other bodies, but also the rights and duties of these bodies. The State assumes the care of children left without parental care by organizing guardianship, adoption, placement in a state institution or handover to an appropriate family.

Part 4 of article 36 of the RA new Constitution stipulates:

“Children left without parental care are protected and taken care of by the State.”

And article 86 provides:

“Main goals of state policy:

¹⁸ UNICEF “Evaluation of Family Support Services and Stakeholders Contribution to related services/systems final report” October 2015

http://www.unicef.org/evaldatabase/files/Family_Support_Services_Evaluation_UNICEF_Armenia_2015-004.pdf
[last access: 20 March, 2016]

5) *Guaranteeing necessary conditions for the full physical, mental and spiritual development of children and for the development of their individuality.*”

However GT bodies having a key role in the RA system of protection of children’s rights have serious problems in terms of effective implementation of their functions.

The situation analysis conducted in RA for the 2013-2016 strategic programme for the protection of the rights of the child (approved by the Decision of the RA Government No 1694-N dated 27th December 2012) indicated that the three-tier system introduced in the RA in 2005 has certain institutional and structural flaws which affect the effectiveness of policy in this field.¹⁹

1) ***The functions of GTC and GT bodies are not separated*** and there is no clarification in the legislation on the differentiation of the rights and obligations relating to the protection of children’s rights.

The functions of GTC are not even defined, and often their members are not aware of the goal, objectives and functions of GTC.²⁰

The Charter of the GT bodies stipulates:

“9. The GTCs organize and perform their functions in accordance with annual work programs approved by the head of the community.

10. The GTC functions in accordance with its approved agenda.”

On the 20th of February 2016 during an interview with the head of the Family, Women and Children Department of RA Ministry of Labor and Social Affairs Geghanush Gyunashyan clearly stated that as a result of improper regulation of GTC functions, members of GTC do not understand their responsibilities and therefore their role is ineffective. Mrs Gyunashyan also emphasized that the members are usually present at meetings just for the physical presence and do not even communicate any useful ideas.

These are the only two provisions about the functions of the GTC, the obligations stipulated in the charter are provided for the GT bodies only, with no indication of GTC.

In order to clearly understand, differentiate and highlight the importance of GTCs, in the charter of the GT bodies there should be two chapters: one stating the obligations of the GT bodies and the other stating the obligations of the GTC within the GT bodies.

¹⁹ Supra at note 3

²⁰ Supra at note 16

It would also be beneficial if the annual work program was clarified, particularly the provisions that should be mentioned in the work plan, the procedure of adopting a work plan, of its approval and what happens if the GTC acts out of the scope of the workplan.

2) GT bodies, including GTC are composed of 5-8 people working on a **pro bono basis** and their **work with children does not constitute their main job**. The nature of the work done by the GTC is justified only by making decisions on collegial terms, but in terms of the quality of provision of social services and finding substantial solutions to issues such structure of GTC is highly incompatible with their functions, since **most decisions are made without in-depth study of the problems of children and families as well as without further consistent work with children and families found in difficult situation**.

It is stipulated in article 67 (2) of the RA Family Code:

“The GT body must by law examine the life of the child...”

So rather than being a mere administration the GT body’s examination of the child’s life should be done in a complete, objective manner, be based on facts and supplied with reasons.

For the examination to be effective in practice the abovementioned process should be incorporated in RA legislation along with separate liability for breaching the principles of objectiveness or not supplying the decision with proper reasons.

Apart from this, the GTC within communities must be proactive in detecting children with special educational needs and ensuring their right to education, carrying out monitoring. However, as the members of the GTC work on a pro bono basis, they do not always perform their functions fully and properly.²¹

According to the Partnership for Open Society Submission to the Committee (July 2012)

“The majority of decisions adopted by the GTC were made after having seen the child or the parent once without any in depth analysis or further control.”

It would be beneficial for the GT to have paid positions of community social workers so it can create motivation for the workers to do their job better and to change the approach to their work.

²¹ Supra at note 6

3) The members of GTC are often unable to defend the rights and interests of the inhabitants of their community as they do not have proper legal knowledge and capabilities.

The unprofessional team of the GTC raises many problems not only in terms of defending rights in the court. Lack of professionalism affects the quality of assistance provided to children.

It is provided by the Charter of the GT bodies that:

“GTCs may include employees of regional administrations of departments of protection of Family, Women and Children, territorial bodies of social services, community service staff of the head of the community, community pedagogues, psychologists, social workers and lawyers, as well as representatives of non-governmental organizations (by agreement).”²²

Under the law, the GTC should comprise a social worker, doctor, teacher and a police officer but in practice the GTC members lack expertise and adequate qualification in the appropriate fields and thus they are unable to perform their tasks properly.²³

To prevent this problem the charter provision on the inclusion of different bodies in the GTC has to be changed. First of all the term “may include” can be changed into “has to include”, thus making the presence of all the bodies mentioned in the charter obligatory.

Secondly the GTC should include at least one social worker from regional agencies or departments of social assistance provided by the Government of the Republic of Armenia who fulfills the qualification requirements stipulated by article 39 of the new law on Social Assistance, according to which:

“1. A social worker is a person who has higher professional education in the profession of “social work” and who exercises professional activities.

2. A social worker can also be a person with higher education in another profession who has completed special training courses for the profession of “social work”, has received the relevant certificate and has at least one year of experience in the field of social work.”

According to an interview with FAR Children's Center Director Mira Antonyan on 9th of March 2013 she stated that:

²² Supra at note 18, chapter 1, part 5

²³ Supra at note 16

“It is required from the GTC to present children's interests in court, but the GTC members do not always have the legal knowledge and they are often present physically.

Courts are reluctant to the opinion of the GTC, but it is necessary to perform a complete and professional assessment of the family situation and GTC does not have the ability. The Court often relies on the non-professional assessment of GTC.

I think the GTC's work is far from being effective. There are no specialists, people are not interested, it is not their job. But the problem is not in the people, the problem is in the model.”

4) There is **no effective cooperation between GTC and other institutions**, there are no resources for implementing the main functions such as taking care of children, organizing their care and protection.

According to Anahit Grigoryan, the project manager for World Vision's “Reducing violence against children in Armenia” project:

“The communication between the three levels of the child protection system in Armenia is not sufficient; World Vision is trying to bridge this gap and share expertise with the authorities to establish effective interaction”

According to the articles 7 and 8 of the first chapter of the charter of the GT bodies:

“7. GT bodies in the scope of their authority cooperate with municipalities: in Yerevan: the Yerevan Municipality, GT bodies of communities, regional bodies of social services, employment agencies, academic institutions, health care institutions, RA Police territorial bodies, NGOs and institutions that exercise child protection activities.

8. GT bodies receive advice, support and information on methodical clarifications and guidelines regarding government policies, regulations and documents relating to the protection of children from the Ministry of Labor and Social Affairs of the Republic of Armenia. GT bodies receive advice, support and information from the Regional Office, and in the city of Yerevan: the Yerevan Municipality.”

In order to develop the cooperation between GT bodies and other institutions, as well as to enhance the effectiveness of GT bodies' functions at the end of the abovementioned article 8 of the charter of GT bodies the following provision can be added:

“The GT bodies shall also receive advice, support and information from individual experts with relevant professional qualifications and NGOs and foundations exercising activities in the field of child protection”.

5) GTC in practice do not control the process of protection of the rights of children after guardianship is established, so there is a **clear lack of ongoing monitoring**.

According to the Partnership for Open Society Submission to the Committee:

“The state does not even have any support mechanism for guardianship, nor a regular monitoring for children under guardianship.”

The RA legislation does not essentially plan monitoring procedures of the care of children in foster families, adopted children and children who are under GT.²⁴

Proper monitoring of the implementation of the children’s protection strategy by the National Commission, as well as ongoing monitoring of the operation of the divisions for protection of children’s rights should be ensured in order to enhance the functioning of GT bodies.²⁵

6) There are **no preventive functions** of GT bodies stipulated by RA legislation. Apart from helping children to get away from families where their life and health are under threat, there should also be a system of prevention of abuse and neglect of children which does not exist in the RA legal system.

In the charter of the GT bodies there should be a provision stating that:

“The GT body implements functions directed towards the prevention of violations of children’s rights and interests through organizing informative meetings and events within the community with children, parents, care institutions and academic institutions. For the organization of these meetings the GT bodies shall have the right to seek assistance from the Ministry of Social Affairs and Labor, individual experts, representatives of NGOs and foundations.”

Moreover in order to make the stipulation more clear, it can also be provided that the frequency, dates and programs of the meetings shall be decided by the GT bodies after consultation with the institutions and individuals providing assistance and calculating the necessities, particularities and needs of the community.

²⁴ Supra at note 3

²⁵ Supra at note 16

7) **Disagreements between parents** on the name and family name of the child are also resolved by the GT body. The issues with this are that i) there are no clear criteria to guide the GT body on making the decision, ii) the legislation does not require that the outcome of the GT body's decision has to be duly substantiated, moreover, it does not even need to be in writing iii) there is no procedure for the GT body to follow when issuing an instruction and there are no clear timeframes for issuing such instructions.

Due to these shortcomings that are encountered in the case of a disagreement between parents on the selection of the name of the child, there may be delays in the issuing of instructions by the GT bodies. Without clear regulations, there is also risk of corruption.²⁶

Considering the abovementioned more serious existing arguments about the effectiveness of GT bodies' actions, the decision on the name and family name of the child may be viewed as a simple one however if there are no proper indicators and no regulations which can guide the GT bodies in making this decision, this can also become a serious one.

It would be really beneficial for both the parents and the GT bodies if clear provisions on issuing an instruction were incorporated in the legislation such as making the process of listening to each party's arguments and opinions obligatory, putting a clear time frame for issuing an instruction which can be amended only in cases provided by law, presenting the decision to the parties both orally and in writing with clear reasoning for the decision.

CHAPTER 3

International best practice of functioning of guardianship and trusteeship bodies (Finland and USA)

²⁶ Supra at note 6

Finland

Finland ratified the UNCRC in 1991. The agreement binds the state, municipalities, parents and other adults to the implementation of children's rights in various fields.²⁷

In Finland Child protection is a task of the local social authorities, which above all, shall provide support to the custodian of the child. But if the circumstances at home seriously endanger the child's well-being or if the child seriously endangers its own well-being, the child can be taken into care by the local social authorities, to whom a considerable part of the custodial rights will be transferred. According to the Finnish legal system the custodians of a minor are also its guardians unless the court appoints another person.²⁸

The custodian shall provide daily care and protection for the child, but the factual care provider must not be the custodian him or herself. If the child has been taken into care, the local social authority has the right to decide about care for the child.²⁹

The local social authority is responsible for the child's care and protection if the child has been taken into care, and the authority is given the power to carry out this task.³⁰

In Armenia it is provided that:

*"In case of parents' absence, their being exempted from parental rights and other cases of the lack of parental care the right of a child of being reared in a family is provided by the departments of custody and guardianship."*³¹

Best interest of the child

²⁷ Ministry of Social Affairs and Health Finland "Children, youth and families" see at <http://stm.fi/en/children-youth-families> [last access: 25 March 2016]

²⁸ National Report: Finland on parental responsibilities by Dr. Kirsti Kurki-Suonio see at <http://ceflonline.net/wp-content/uploads/Finland-Parental-Responsibilities.pdf> [last access: 2 April 2016]

²⁹ Finnish Child Custody and the Right of Access Act, (361/1983; with amendments 186/1994, 620/1996, 818/2000) Sec. 1 see at <http://www.finlex.fi/en/laki/kaannokset/1983/en19830361.pdf> [last access: 2 April 2016]

³⁰ Id at Sec. 19 para. 1

³¹ RA Family Code article 41 /adoption: 09.11.2004, signature: 08.12.2004, entry into force: 19.04.2005/ see at <http://www.arlis.am/DocumentView.aspx?DocID=99927> [last access: 3 April 2016]

In Finland child welfare is always about the best interests of the child. This means that in all decisions concerning a child the social workers must decide on the best solution regarding the child's current situation.³²

The Child Welfare Act of Finland contains a list of issues to which a child welfare social worker must pay attention when evaluating whether the best interests of the child is realized. For example, consideration must be given to how different solutions guarantee the maintenance of a child's close and continuous relationships, or support a child's linguistic, cultural and religious background.³³

In its 27.12.2011 decision of the case U.f.U.7/0264/02/11 the Cassation Court cited article 3 of the UNCRC according to which:

“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”

Armenian legislation, including RA Family Code, RA Law on child's rights does contain provisions which include the term “interest of a child” however what components includes the term interest of a child is not defined in any law.

Consequently GT bodies have no guidelines in order to function in accordance with the best interests of the child as defined in the UNCRC.

In order to fill in this legislative gap a clear definition of the “best interest of a child” can be provided in the RA Family Code and in all provisions concerning the obligations of the GT bodies in the field of children's rights it would be best to provide that the GT bodies act in accordance with the best interests of the child. It would be beneficial to replace the phrase “interest of a child” with the phrase “best interest of the child” in order to adjust it with the UNCRC wording. A separate article should also be incorporated in the charter of the GT bodies which is one of the main documents regulating the functioning of GT bodies according to which:

³² Grounds for child welfare see at <http://www.lastensuojelu.info/en/grounds.html> [last access:3 April 2016]

³³ Supra at note 25

“The best interest of a child should be the primary consideration for all the functions of the GT bodies”.

Family policy

In Finland the Ministry of Social Affairs and Health of Finland (hereinafter, MSAH) is responsible for family policy as well as maintaining and developing the welfare of children, youth and families jointly with other ministries.

There are two boards within the MSAH:

The **Advisory Board for Early Childhood Learning and Care** is responsible for promoting the broad based development of care and early learning for young children.

The **Advisory Board on the Health and Welfare of Children** monitors and guides developments related to child and youth health and welfare and related services.

When the social welfare board of the MSAH, upon the request of a court, prepares a report or uses its right to be heard in a case relating to child custody or right of access, it shall consult with the guardianship board, if this is to be deemed necessary, and request a statement from the guardianship board on the guardianship of the child, where necessary.³⁴

When the social welfare board is notified of the death of a custodian, resulting in the loss of child custody, it shall consult with persons close to the child and make an application to the court on the appointment of a custodian and a guardian, where necessary.³⁵

In Armenia a guardian or trustee is appointed by the agency of guardianship and curatorship at the place of residence of the persons needing guardianship or trusteeship within a month from the time when the aforesaid agency became aware of the necessity of establishment of guardianship or trusteeship over a citizen. Until the appointment of a guardian or trustee for the person needing guardianship or trusteeship, the performance of the obligations of the guardian or trustee shall be conducted by the agency of guardianship or trusteeship.³⁶

³⁴ Supra at note 29

³⁵ Supra at note 24

³⁶ RA Civil Code article 37 /adoption 05.05.1998, signature 28.07.1988. entry into force 01.01.1999/ see at <http://www.arlis.am/DocumentView.aspx?DocID=102932>[last access: 3 April 2016]

Deprivation of parental rights/ discharge of custodian

In Finland if the child's health or development is seriously endangered by a lack of care or other conditions at home, the local social authority shall take the child into care and provide it with substitute care.³⁷

If a child has been taken into care, the local social authority has the power to decide on the child's care, upbringing, supervision, residence and other welfare of the child. Thus, the custodian will be discharged of exercising the rights mentioned above as a consequence of the care procedure. The care order can be initiated by the competent local social authority, which is, in practice, the communal social worker or social workers.³⁸

In Finland there is no special civil court procedure for discharging a custodian because of his/her behavior or lack of parental competence. A custody decision or approved agreement can be reviewed if the circumstances have changed after the decision or agreement has been made or if the change in custody is.³⁹

In Armenia the deprivation of parental rights is realized by judicial procedure. The cases on deprivation of parental rights are considered on the basis of application by one of the parents (lawful representatives), as well as the departments and organizations (departments of GT, organizations for orphans etc.), who bear the obligations of the protection of the rights of children. The cases on deprivation of parental rights are considered with obligatory presence of the departments of GT.⁴⁰

However, clear criteria for deprivation of parental rights are not specified in the Armenian legislation. The law defines some criteria, but evidence must be provided for depriving a parent from his or her parental rights which includes testimonies (given by neighbors, eyewitnesses, police officers). However, the law does not require any expert conclusion for depriving a parent

³⁷ Supra at note 20

³⁸ Supra at 29, Sec. 19

³⁹ Supra at note 24

⁴⁰ Supra at note 31, article 60

of his or her parental rights. Such a conclusion should obviously be provided by the bodies involved in the system for protection of children's rights and interests. In the absence of the appropriate legal grounds, courts avoid depriving parents of their parental rights and, as a rule, in such situations the child is referred to a care institution.⁴¹

So in Finland by discharging a custodian the local social authorities' functions can be equated with the court's functions. The fact that the deprivation is implemented through a decision of the local social authorities is acceptable and in many cases preferable, as the social authorities are more aware of the situation of the family of each child, as well as their professionalism in that field can lead to a decision within the best interests of the child.

Children's Ombudsman Institution

The Ombudsman for Children supervises the implementation of children's rights in Finland. The Finnish Parliament established the Office of the Ombudsman for Children in 2005.⁴²

The RA Law on Human Rights Defender entered into force on 1st January 2004. The Human Rights Defender (hereinafter, Defender) in Armenia is an independent public official who protects human rights and freedoms violated by public administration bodies and local self-governments, and is governed by the fundamental principles of legality, social coexistence and social justice.⁴³

In its Observations issued in 2004, the Committee on the Rights of the Child recommended to the Republic of Armenia "...to establish either a [Human Rights] Procurator specifically responsible for children's rights, or a specific section or division within the Office of the Human Rights Procurator responsible for children's rights." In the discussion of the annual state budget for 2012, the Republic of Armenia addressed the aforementioned recommendation by setting aside resources in the state budget for one staff position of a human rights procurator for children

⁴¹ Supra at note 16

⁴² "Do you know about the human rights of children?" Ombudsmen of children Finland brochure 2014 see at <http://lapsiasia.ssthosing.fi/wp-content/uploads/2014/12/Englanninkielinen-LOS-esite.pdf> [last access: 3 April 2016]

⁴³ Supra at note 2

in the Office of the Human Rights Defender of the Republic of Armenia. It is reasonably assumed that, with this one staff position, the Human Rights Defender cannot adequately operate as an independent and effective national institution.”⁴⁴

The RA legislation does not foresee the establishment of a separate independent institution on the rights of the child. The chief advisor of the Defender is responsible for identifying issues that threaten the rights of the child, for recommending solutions, and for raising awareness within the state, all the while co-operating with state agencies and non-governmental organizations. Infrequent applications to the Human Rights Defender by children were accounted for by the lack of awareness, as well as the limited nature of the Defender’s powers. The Advisor also raised the issue of the lack of resources, in particular the fact that one person is not enough to carry out rapid response to the existing problems.⁴⁵

In 2011 during an interview with Anahit Bakhshyan (Member of RA Parliament, public activist) on the topic of “Establishment of Children’s ombudsmen institution in Armenia” Mrs Bakhshyan stated that:

“We should emphasize that the three-level system of child protection is formal, and is not efficient, it is not a full mechanism of Children’s Ombudsman, because the system responds to the needs of the child only when the child is already in a difficult situation, while it should act as an early intervention and prevention mechanism.

The Parliament should pursue the establishment of the mechanism of independent monitoring of the Children’s Ombudsman implementation. And in that sense it is important that the creation and establishment of Children’s Ombudsman Institution serve as such mechanism, because only in this case it will be possible to monitor the implementation of the national project of Children’s Ombudsman and to report it to the National Assembly.

⁴⁴ Report of the Human Rights Defender of the Republic of Armenia to the UN Committee on the Rights of the Child 2012 see at http://www.theioi.org/downloads/4eho7/CRC_alternative_report_from_HRDO_final.pdf [last access: 4 April 2016]

⁴⁵ Supra at note 2

The Children's Ombudsman institution was expected to be established in Armenia in 2001, but the three-level system was created instead, which in fact cannot be an independent mechanism for the implementation of the Convention."⁴⁶

Child's feelings, opinions and wishes

In Finland before a child's custodian makes a decision on a matter relating to the child's care, the custodian shall, where possible, discuss the matter with the child taking into account the child's age and maturity and the nature of the matter. In making the decision the custodian shall give due consideration to the child's feelings, opinions and wishes.⁴⁷

According to Armenian legislation it is obligatory to take into consideration the opinion of the child only when the child is above 10 with regards to freedom of conscience, participation in particular events, rejection of extracurricular education, living with one of the parents, communication with relatives and other issues stipulated by law.⁴⁸

According to article 12 of the UNCRC:

"States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child."

In the process of making decisions about the care of a child one of the most important considerations should be the child's feelings, opinions and wishes. Finland's practice in this case shows that the age of the child does not matter when the faith and the future well-being of the child is being decided upon and this is directly linked to the best interest of the child.

Therefore taking as a basis the UNCRC provisions, as well as Finland's practice, RA legislation can be altered by providing a smaller age or not providing an age limit at all in matters which effect the child. This will ensure

The role of a social worker

⁴⁶ See at <http://www.panorama.am/en/news/2011/06/16/child-ombudsman/930296> [last access: 26 March 2016]

⁴⁷ Supra at note 29

⁴⁸ RA Family Code, article 44 see at http://www.parliament.am/law_docs/081204HO123eng.pdf [last access: 02 April 2016 at 21:55]

According to the Finnish Child Welfare Act:

“In Finland a social worker must be appointed to be in charge of the affairs of a child. The social worker responsible for the child’s affairs must be professionally qualified as a social worker.

The qualification requirement for the post of a social worker is a higher university degree including, or in addition to which the person has completed major subject studies or university studies in social work corresponding to the major subject. The qualification requirement for the post of a social services ombudsman referred to in section a suitable higher university degree and knowledge of the sector.”

In Armenia all major communities should have social workers. Community social workers can be trained or community servants can be retrained as social workers, their work mandate as the focal point dealing with children and families should be specified. The job description of community center social workers should clearly specify the functions through which the divisions for protection of children's rights will be able to obtain information about the status of vulnerable children residing in the community. The community center social worker should be also involved in the advisory work carried out by the community child care and guardianship bodies along with ensuring indepth analysis of problems, drawing of conclusions and targeting.⁴⁹

USA

In US the child welfare system is a group of services designed to promote the well-being of children by ensuring safety, achieving permanency, and strengthening families to care for their children successfully. While the primary responsibility for child welfare services rests with the States, the Federal Government plays a major role in supporting States in the delivery of services through funding of programs and legislative initiatives.⁵⁰

Caseworkers

⁴⁹ Supra at note 16

⁵⁰ “How the Child Welfare System Works” Child Welfare Information Gateway see at <https://www.childwelfare.gov/pubPDFs/cpswork.pdf#page=7&view=Additional Resources> [last access: 02 April 2016 at 21:55]

In the US any concerned person can report suspicions of child abuse or neglect. Most reports are made by “mandatory reporters”—people who are required by State law to report suspicions of child abuse and neglect.⁵¹

These reports are generally received by child protective services workers and are either “screened in” or “screened out”. A report is screened in when there is sufficient information to suggest an investigation is warranted. A report may be screened out if there is not enough information on which to follow up or if the situation reported does not meet the State’s legal definition of abuse or neglect. In these instances, the worker may refer the person reporting the incident to other community services or law enforcement for additional help.⁵²

In the US CPS caseworkers, often called investigators or assessment workers, respond within a particular time period, which may be anywhere from a few hours to a few days, depending on the type of maltreatment alleged, the potential severity of the situation, and requirements under State law. They may speak with the parents and other people in contact with the child, such as doctors, teachers, or child care providers. They also may speak with the child, alone or in the presence of caregivers, depending on the child’s age and level of risk. Children who are believed to be in immediate danger may be moved to a shelter, a foster home, or a relative’s home during the investigation and while court proceedings are pending. An investigator also engages the family, assessing strengths and needs and initiating connections to community resources and services.⁵³

According to the National Survey of Child and Adolescent Well-Being II baseline report, 75% of caseworkers earned an annual salary between \$30,000 and \$49,999. Approximately 20% of caseworkers had salaries over \$50,000.⁵⁴

Armenian practice

According to the RA Family Code article 43(2) and (3):

⁵¹ Id

⁵² Id

⁵³ Id

⁵⁴ Child Welfare League of America: CWLA “The Nation’s Children 2012” see at

<http://66.227.70.18/advocacy/statefactsheets/2012/NationalFact2012.pdf>[last access: 4 April 2016]

“In case of violation of a child’s rights and interests (in particular, violation or partial realization of the obligation of parents or one of them to rear and educate the child, as well as the abuse of the parental rights) a child has the right to apply for help independently to the departments of guardianship and trusteeship.”

“The officials and other citizens, who became aware of the threats to life and health of a child, as well as the cases of violation of child’s rights and interests, should inform about that the departments of custody and guardianship of the virtual residence of a child. After getting such information the department of custody and guardianship should undertake necessary means for protection of a child’s rights and interests.”

In Armenia there are no mandatory reporters of child abuse and neglect which are required by State law to report suspicions. It is not provided by any legal act that GT bodies have an obligation to exercise monitoring and reporting functions.

An important input in the system of GT bodies’ functions would be incorporating in the charter of the GT bodies, as well as in the RA Family Code a new provision such as:

“GT bodies in the community are obliged to implement ongoing monitoring of children’s rights and interests, discovering families in the community in which there is a risk of violation of children’s rights or interests and exercising special monitoring of the situation of children living in these families.”

In order to ensure the effective cooperation of GT bodies with other institutions it can be provided that the monitoring must be conducted with assistance of social agencies and/or departments, as well as cooperation with the departments of protection of the rights of the family, women and children. Timing and frequency of monitoring procedures can be determined according to the necessity of the existing situation with a separate decision for each child.

Even if the establishment of a separate institution of caseworkers will take long time and efforts, the caseworkers can be within the GT bodies. It would be beneficial to provide in the charter of the GT bodies that as a result of GT bodies monitoring function in case of finding imminent threat to the life or health of the child, the GT bodies are obliged to take a child away from the parents (one of them) or the persons under whose care the child is placed, to immediately ensure

the temporary placement of the child and apply to the court for deprivation or restriction of parental rights. Moreover there should be a clear number of days for ensuring the placement of child and for applying to court so that the procedure is exercised in a rapid manner and no child is left in danger.

Assessment of risks

In the US If a child has been abused or neglected, the course of action depends on State policy, the severity of the maltreatment, an assessment of the child's immediate safety, the risk of continued or future maltreatment, the services available to address the family's needs, and whether the child was removed from the home and a court action to protect the child was initiated. The following general options are available:⁵⁵

No or low risk - The family's case may be closed with no services if the maltreatment was a one-time incident, the child is considered to be safe, there is no or low risk of future incidents, and any services the family needs will not be provided through the child welfare agency but through other community based resources and service systems.⁵⁶

Low to moderate risk - Referrals may be made to community-based or voluntary in-home child welfare services if the CPS worker believes the family would benefit from these services and the child's present and future safety would be enhanced. This may happen even when no abuse or neglect is found, if the family needs and is willing to participate in services.

Moderate to high risk - The family may again be offered voluntary in-home services to address safety concerns and help reduce the risks. If these are refused, the agency may seek intervention by the juvenile dependency court. If the child has been seriously harmed, is considered to be at high risk of serious harm, or the child's safety is threatened, the court may order the child's removal from the home or affirm the agency's prior removal of the child. The child may be placed with a relative or in foster care.⁵⁷

⁵⁵ Id at page 5

⁵⁶ Id

⁵⁷ Id at 5

Armenian practice

In RA in case of the direct threat to the health and life of a child the department of custody and guardianship is authorized to take the child immediately from the parents (one of them) or the persons under whose care the child is placed. When taking the child the department of custody and guardianship is obliged to provide immediately temporary settlement of the child and apply to court within seven days with the suit to deprive the parents (one of them) of parental rights or restrict their parental rights.⁵⁸

Consequently in US there is an assessment of risks involved when the question comes to the future of the child which is definitely a very good approach because the best thing for the child in any situation is to stay with his/her family, if the harm to the child is not considered to be too serious.

In order to act in the best interests of the child it would be beneficial for Armenia to also set up some standards of differentiation and assessment of the risks of harm to the children in order to understand the right behavior and deprive parents from their rights only in cases of high risks of danger to the child. The assessment can be implemented by GT bodies after close examination of situation in the family, the procedure should be clearly indicated.

In-home services system

In the US in low-risk cases there are services with the help of which children may remain in their own homes with their families, and the families may receive in-home services and supports. These may include parent education, safety planning, counseling, and more. Families may also be connected with community services that provide help (e.g., housing, food) as well as services such as therapy, parent training, and support groups.⁵⁹

These are generally families who have an “open case” with the child welfare agency and whose children remain at home or have returned home from out-of-home care. The services may be voluntary or court

⁵⁸ Supra at note 48

⁵⁹ Supra at note 46, page 6

ordered, and they encompass an array of interventions and supports provided directly by, or on behalf of, a child welfare agency to all children in a family to ensure their safety and promote well-being.⁶⁰

Other cases involve children who return home after a stay in foster care; in these cases, the child welfare agency strives to ensure that parents can provide the safety and care that children need to live at home and prevent reentry of the children into care.⁶¹

There are a few programs included in the abovementioned in-home services such as:

Family Connections - a multifaceted, community based program designed to reduce occurrences of child emotional and physical neglect in at-risk families. Interventions are tailored to family needs and comprise emergency assistance services, home-based service delivery, coordination of services targeting both risk and protective factors, and multifamily supportive recreational activities.⁶²

Homebuilders - a family preservation program geared toward preventing the unnecessary placement of children in out-of-home care. The program focuses on building family relationships, skills training, and addressing concrete needs, all in a family's natural home environment.⁶³

Taking into account the level of development and effectiveness of child protection system of Armenia it is difficult to say that the practice of the United States can be fully implemented in Armenia because it is a matter of time, effort, legislation changes and system enhancing.

However the establishment of the system of in-home services in Armenia even within the GT bodies can be a big step forward towards the main goal of the UNCRC: keeping the best interest of a child as a primary consideration.

According to the Rapid Assessment of Residential Child Care Institutions in the Republic of Armenia which was carried out with the support of the “Harmonic Society” Armenian Association of Social Workers, UNICEF, and the Labor and Social Affairs Ministry of the

⁶⁰ Children's Bureau “ In-Home Services in Child Welfare” Issue Brief, March 2014 see at https://www.childwelfare.gov/pubPDFs/inhome_services.pdf [last access: 3 April 2016]

⁶¹ Id

⁶² Id at page 8

⁶³ Id at page 9

Republic of Armenia in a total of 50 state and charitable institutions of child care operating in Armenia of the 3,823 children living in institutions (save for 1,079 that go home every day), 1,675 (44 percent) rarely go home, and no family reunification programs are being developed for them.

Removing children from their families is disruptive and traumatic and can have long-lasting, negative effects. There are a number of stressors for a child that are associated with removal and can add to the initial trauma of maltreatment, including dealing with the substantiation of abuse and/or neglect findings and having to cope with parental loss.⁶⁴

Taking into account the abovementioned data and information, by establishing the in-home services, preventing the removal of children from their families can be effectively decreased, services can be provided by improving parental supervision, by helping parents overcome their issues as well as help families to access community resources.

The in-home services system can also be viewed as a monitoring system. After children return home from out-of-home care the child welfare agency supervises the activities of parents making sure that the safety and care of children is brought to a high level and there are no risks of abuse and neglect.

CONCLUSION

Right through history, children have been abused and exploited. They still suffer from hunger and homelessness; work in harmful conditions, high infant mortality, deficient health care and limited opportunities for basic education, as well as further education. A child need not live such a life. Childhood can and must be preserved. Children have the right to survive, develop, be protected and participate in decisions that impact their lives.⁶⁵

⁶⁴ Id

⁶⁵ "Child Rights Importance" see at <http://uk.cry.org/knownus/importanceofchildrights.html>[last access: 3 April 2016]

As in the Republic of Armenia the legislation puts a lot of obligations on the GT bodies, the effectiveness of the functions of these bodies is still in need of further evaluation and development. In order to do so legislative and structural changes must be made along with a clear aim of acting in the best interests of a child.

There are some essential amendments that need to be implemented in order to reach any development in this sphere:

Firstly, the **best interest of the child** shall be the primary consideration of all actions implemented by GT bodies which shall be incorporated in a written form.

Secondly, high importance should be given to the **professionalism of the people that work within the GT bodies**, considering that the future of many children can possibly be in their hands.

Thirdly, there shall be no provision in the legislation of the sphere of child protection that can be **misunderstood or misinterpreted**. Every stipulation shall be as clear as possible for the public as well as for all bodies and institutions to which the legislation is directed to. Close review is needed for the rights and obligations of GT bodies and GTC.

The implementation of these recommendations will assist in making RA services for children more far-reaching, dependable and targeted as well as will enable the advancement of mechanisms to prevent, identify and act in response to cases of violation of children's rights at all levels.

Taking into consideration the small population of Armenia and the current social situation Armenia undoubtedly has all capabilities and prerequisites for effectively undertaking and securing the smooth implementation of the whole system of child care to match with the best world practices in that field.

Alongside with other legislative reforms that still undergo in Armenia, special attention should be given to the reforms of the child protection system by looking at children's rights issues from a human rights perspective.

Children are the most vulnerable segment of any society. Their situation provides both, the most stringent metric of a society's health and the rallying point with the widest appeal across all parts of society.

Ensuring child rights, therefore, provides the most effective, sustainable solution to the myriad social, economic and political issues confronting the world in general.⁶⁶

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