Day of General Discussion: "Children’s Rights and Alternative Care" 16 - 17 September 2021

Submission by the National Center for the Rights of the Child

(Republic of Korea)

National Center for the Rights of the Child(NCRC) congratulates the opening of Days of General Discussion by The Committee on the Rights of the Child, and is delighted to present our thoughts on this year’s topic of children’s rights and alternative care. This year’s DGD holds even greater meaning as we gather after one year postponing due to the COVID-19 pandemic.

While COVID-19 pandemic has been a threat to the protection and promotion of children’s rights in the short-term, it also has served as an opportunity to seek better integrated and more innovative development of children’s rights policies rightfully needed. Countries around the world are putting their full efforts to recover from the pandemic including vaccination. We expect the outcomes of this DGD created and participated by children will be another landmark in child welfare policy.

UNCRC and the ‘United Nations Guidelines for the Alternative Care of Children’ adopted at the 64th UN General Assembly in 2009 share the view that the best caring environment for a child is their own family. Such view prioritizes strengthening supporting policies for a child’s own family, temporary and short-term separation from his/her own family, and early return to his/her own family. The Korean government has these principles reflected on the Child Welfare Act and has written and distributed work manuals for the government and local governments to protect rights of children consistent with these principles. Local governments search for blind spots in child protection to ensure vulnerable children(families) are properly protected at their own family; and provide necessary counseling, assist and connect to welfare benefits and other relevant services to prevent family disorganization.

The children deprived of their family environment have the right to receive special protection and support from the state, and the state has the obligation to establish alternative protection measures for such children. The most important feature of ‘alternative care of good quality’ would be ‘provision of stable home environment’. The fundamental ideology of the Korean Child Welfare Act is ‘growth in stable home environment at the best interest of the child’, ensuring a child’s right be protected and supported by the same law.

Foster care is an institution to protect a child whose own family cannot provide proper care due to reasons such as divorce, child abuse, or abandonment, in an environment similar to a safe home. It was found as an alternative care to assist healthy growth and development of a child in need of protection, at the best interest of the child. Korea is expanding foster care protection for those children in need. Foster care takes 24.8% among all protective measures in Korea. More specifically, 66.7% is child rearing by grandparents, 25.1% is by relatives, and 8.2% is by regular foster care homes (as of 2019). The government and the NCRC plans to increase the share of foster care homes by amending and improving relevant laws and institution.

In establishing child related policies, the state and policymakers must remember that a child knows best what he/she needs. A system to listen to the voices of children and provide appropriate feedback is much needed in order to ensure ‘best interest of the child’ and ‘child’s right to participation’ which are the fundamental principles of UN Convention. The NCRC works on relevant projects starting from reviewing policy suggestions from the children themselves.

**The children expressed that it is important to explain the situation to the child and reflect on the child’s opinions when foster care begins and ends.** The child has right to express freely of all issues affecting themselves, and the state should apply their expressions proportionate to their age and developmental stage. Especially with regards to alternative care, the child must be fully consulted with at all stages of decision making for the care of best interest to the child.

In order to guarantee such rights of the child, we listen to the child’s opinions in accordance with the Child Welfare Act and ‘Child Protection Services Work Manual’ in all stages from the beginning of foster care to the end. More specifically, the state listens to the child’s voices in initial counseling, needs assessment and child situational checklist stages. The child’s opinions are especially heavily reflected on when change in protective measures (including child aging out of care) is necessary.

**The children also suggested active use of guardianship and amendment of relevant law.** They face various difficulties when their biological parents are unable to be contacted or located for a long time, but the court denies application for guardianship because the legal parental right still exists.

In order to address such difficulties caused by lack of legal rights of the foster children, we seek to strengthen the role of local governments and foster care support centers, and expand legal aids in coordination with Korea Legal Aid Center for Family Relations.

**Increase in financial support** for foster children is another repeating suggestion, and the government and local governments are striving to expand support.

The government and local governments developed standards for differential grant based on the child’s age and additional amount in order to provide realistic financial support to foster homes. The governments also established standards for purchase of daily necessities needed when foster care begins, which used to be different among local governments. In addition, the standard for recommended specialized care expenses based on the specifics of the child such as abused child, child with borderline intelligence, and infants have been strengthened.

**The child in need of protection has both the right to receive alternative care of good quality and the right to quickly return to their original home to grow at a stable environment.** In order to guarantee such rights of the child, we counsel and advise the child and their guardians during the care, and coordinate/support necessary benefits and services so that original home can protect and rear the child. We maintain keen interest after protective measures end to ensure the child does not lose contact with the original home and they continue communication through biological family exchange programs.

Furthermore, we conduct 4 follow-ups in a year to confirm the child who returned to their original home stays well. Telephone call and home visits are made within the first week after the child’s return to their original home, two times or more of monitoring (one home visit is mandatory) is done within one month, and the fourth monitoring is done after six months. The follow-ups are conducted based on the childcare plans and biological family situational checklist written by the child prior to the return.

In the final comments to the 5th and 6th Periodic Child Report of Republic of Korea to the UN Committee on the Rights of the Child, the Committee recommended to support and facilitate family-based care for all children wherever possible, allocate adequate human, financial and technical resources to expand and enhance the quality of foster care for children who cannot stay with their families. The NCRC fully understands the background of such recommendation and the need for implementation and will strive to act on our challenge of improving foster home care system to realize the best interest of the child and protect the rights of the child.