

RESPONSE FROM CARE

COMMISSION ON FAMILIES AND THE WELLBEING OF CHILDREN

NCH, the National Family and Parenting Institute and the Joseph Rowntree Foundation

September 2004

1. Introduction to CARE

1.1 CARE is a mainstream Christian movement and charity with approximately 100,000 supporters. CARE campaigns, provides resources, undertakes caring work and helps bring Christian insight and experience to matters of public policy, education and practical caring initiatives.

1.2 CARE incorporates more than 160 crisis centres offering support, advice and information to those with unplanned pregnancies; foster families to adults with learning disabilities and the radical care of young people on remand. In addition to its social caring and educational programmes in the UK, CARE also undertakes research and lobbying on associated issues. CARE's concern is for the wellbeing of all in society, but particularly for the most vulnerable and needy. CARE has a headquarters office in Westminster, and is represented in all the UK capitals.

1.3 CARE's Public Policy Department acts as a think-tank on issues relating to bioethics, citizenship, education, family and media and seeks to draw on lessons learned from service provision and apply them to innovative public policy. We have a continuing interest in criminal justice policy, family and children's policy and would emphasize the imperative of faith-based – specifically Christian – groups to offer a constructive contribution to debate on these issues.

1.4 CARE has a long history in responding and contributing to the development of public policy on children and young people, including significant submissions on the development of the Northern Ireland Children's strategy. We believe that the proper criterion for the development of public policy as it relates to children should be the 'best interests' of the child, widely understood and having reference points in the physical, social, spiritual, mental and economic aspects of their wellbeing as an individual.

1.5 CARE recognizes the difficulty of the challenges facing policymakers today and is committed to playing a significant role at the heart of policy formation concerning families and the welfare of children.[\[1\]](#)

2. General Comments

2.1 CARE appreciates the opportunity to respond to the consultation which is being conducted by the Commission on Families and the Wellbeing of Children ('the Commission').

2.2 CARE recognizes the significance of the issues surrounding the complex relationship between the State and the family in England and Wales today. We firmly believe that it is in the best interests of our nation as a whole, and of each family and individual, that a right balance is struck between State involvement in family life and the responsibility of individuals to determine their own affairs.

Our Principles

We set out below the general principles, which underlie our response to the Commission's consultation:

2.3 CARE believes that family life and marriage provide the foundational units of personal, community and societal life and relationships. For most people, families provide the primary context for love and care. Within a family environment core values are shared, imitated and learned.[\[2\]](#)

2.4 CARE believes the State's support and involvement in families necessarily includes relationship support for parents and strong backing for the status of marriage through public policy. While recognising that this is a potentially controversial point of view, it is our contention that marriage provides a unique social context marked by legal and relational commitment which increases the well-being of adults, children and, cumulatively, wider society. It is this commitment and strong foundation that lends families rooted in marriage greater durability and stability, conditions under which children tend to thrive.^[3] The children of married parents have on average a higher educational attainment and better health than other children and have fewer behavioural and criminal problems. All families deserve support, but the first step is to ensure that they are built on the strongest possible footing.

2.5 Children are individuals – unique people entrusted to their parents and society. The welfare and needs of children should be considered as a first priority in arrangements relating to work and home.

2.6 Our belief in the special role of marriage within families and society – with or without children – exists alongside our firm belief in the importance of providing essential practical support for *all* families.

2.7 We believe that the church and other faith communities have a wealth of experience and insight into the workings of family life, and that such experience will be a source of valuable contributions to the practical application of Government family policy.

3. Response to Core Question 1

How and to what extent should the State intervene in the care and upbringing of children, and what kind of corresponding responsibility, if any, does it have to support families?

General Principles

3.1 In considering this question we think it is important first to define our understanding of what it means for the State to 'intervene' in family life generally.^[4] We think it is incorrect to view State intervention

purely in terms of State activity which aims to come between, or interfere with, the relationship between the child and its parents. In a broad sense the State intervenes in the parent/child relationship both through direct and indirect means, by its acting and by its deciding not to act. In this way the State cannot fail to have an impact on family life. For example, where the State does not go so far as to tell parents not to smack their children, the State permits corporal punishment to take place in the home.[\[5\]](#)

3.2 It is sometimes said that in English law everything is permitted except that which is forbidden. This being the case, whether the State expressly forbids, or implicitly permits, it intervenes in family life. The impact of the State on family life ebbs and flows around the various issues affecting families, being more direct and overt at some points than at others. For this reason we think it is more helpful to define State involvement in family life in terms of 'hard' and 'soft' intervention. .

3.3 Hard intervention is where the State intervenes directly in the care and upbringing of children, perhaps through the agency of the police or a local authority social services department. At its most extreme it might involve the State acting *in loco parentis* through a care order granted by a court to a local authority.

3.4 By contrast, soft intervention involves the State coming alongside, rather than in between, the parent and child and offering advisory and support services to assist the family. Examples of this can be seen in the work of social workers helping individuals develop parenting skills, and in the universal provision of child benefit.

3.5 Soft intervention would also encompass State-endorsed family support in the form of, for example, community action groups, local charities, and NGOs. These organisations can (and do) make a significant contribution to the provision of effective family support services at a local level. Their involvement has various advantages over direct State support, including:

- The diverse ways such groups approach family matters (as a result of the ethos informing the group's work). This militates against adopting a one-size-fits-all approach to family issues.
- A sense of 'ownership' of local issues which gives them a vested interest in improving the health of their community and encourages the adoption of a more long- term approach; and

- Being able to enhance the value of their services through the application of local knowledge and understanding.

By forming partnerships with organisations at community level, we believe that the Government could do more to reap the societal benefits which such groups can offer.

3.6 Soft intervention also takes the form of the underlying framework of laws which the Government wishes to promote. Until 2000, for example, the Married Couples Allowance within the income tax system provided a fiscal advantage for married couples. The withdrawal of the allowance not merely removed that advantage, but sent a strong signal that the Government no longer valued marriage as an institution, despite the considerable advantages from which the children of married couples can benefit.

3.7 Moreover since the introduction of tax credits in 1999, the tax/benefit system actually provides a lone parent with a higher disposable income in relation to his or her needs than is available to a couple, whether married or cohabiting, with the same income and number of children. Indeed it may actually be financially advantageous for a couple with children if they split up and live apart: likewise, where there are children two individuals may find it financially disadvantageous if they become a couple. Given the advantages to children in having a secure background, soft intervention of this nature can only be unhelpful.

3.8 The difference between hard and soft intervention is easier to define at its limits; it becomes more difficult as one moves from one towards the other. It is best understood therefore as a spectrum in which the degree and nature of the State's/parent's role changes depending upon where in the spectrum the State's activity falls.

3.9 As a general principle, we would say that the harder the intervention, the greater the justification required of the State to disturb the integrity and autonomy of the family unit. Furthermore, hard intervention should always be viewed as a last resort; only to be used when all reasonable steps have been taken to provide support to the family *in situ*.

3.10 Therefore, in the light of the definition of 'intervention' outlined above, CARE's basic position regarding the above question is that:

- (i) **In cases involving hard intervention the State should intervene in the care and upbringing of children only so far as is necessary to prevent children from being at risk of significant harm.** In this way we support the standard for State intervention in the care of children as set out in section 31 of the Children Act 1989, also known as the 'threshold criteria'.
- (ii) **In cases involving soft intervention the State has a crucial role to play in supporting families (both through direct State action and through supporting independent service providers) so that the interests of the family as a whole, along with those of the individual family members, are promoted and enhanced.** This State responsibility to support families should cover all families, including happy, healthy families as well as those which are in difficulty and require special help. The underlying framework of law should not put families at a comparative disadvantage.

Issue 1a – To what degree is the current provision of early prevention and advice helpful and to what degree is it undermining parents' autonomy and self-esteem? Should it be extended, curtailed or sustained at current levels?

Issue 1b – What are the benefits and concerns associated with the provision of direct support to children without parental involvement? How should this matter be approached?

3.11 Regarding issues 1a and 1b, we will outline our views with reference to one of the areas in which CARE has particular experience, that of the sexual health and education of young people. However, we would like to stress that this subject area does not rank in importance above the other issues CARE is involved with, but forms (a relatively small) part of our overall concern for the wellbeing of all in society, particularly the most vulnerable and needy. CARE is working at the heart of such issues through its front line services providing sex education resources for schools and parents, and in our extensive network of pregnancy crisis centres. We observe that the provision of support to children without parental involvement, particularly in the context of

sexual health and education, continues to be an area provoking widespread discussion and controversy.

3.12 Controversy surrounded the recent sad case of 14-year-old Michelle Smith.^[6] Michelle had become pregnant by her boyfriend and sought advice from a school health worker. On the advice of the health worker she decided to have a chemical abortion and not to inform her mother of the situation. She later changed her mind and wanted to keep the baby, but it was too late and the pregnancy was terminated. Unfortunately, Michelle's mother only discovered what had happened to her daughter from someone she met on the street. Michelle was reported as saying that if she had her chance again, "I would probably have kept the child and let my mum know".^[7]

3.13 We mention this case because of how it illustrates the possible harm that can be done by isolating parents from their children at times when parental support might prove most valuable. We believe that there should be a general presumption that parents should have the first say and involvement in these difficult cases, with other adults only becoming involved instead where there are clear, compelling reasons to do so.^[8]

3.14 Following the Michelle Smith case the Department of Health issued its Revised Guidance for Health Professionals on the Provision of Contraceptive Services for under 16s.^[9] Part of the Guidance reads:

“In the case of abortion, where the young woman is competent to consent but cannot be persuaded to involve a parent, every effort should be made to help them find another adult to provide support, for example another family member or specialist youth worker.”^[10]

3.15 The assessment of whether the young woman is competent to consent will be made by a health professional in line with the decision of the House of Lords in the *Gillick* case^[11] (which of course concerned contraceptive services not abortion) and subsequent guidance. Whilst we acknowledge the legal right of the *Gillick* competent child to confidentiality in the provision of such services, we would like to see more robust guidance given to health professionals on the merits of involving parents in the decision-making process and the value of parental support through that process and its aftermath (whatever that decision might ultimately be). We consider that the best option would be for the parents and young woman to be counselled together prior to the young woman making her decision. However, we appreciate that there are cases where the relationship between the child and her parents has disintegrated to such an extent that this would be very difficult, if not impossible. In those cases careful judgment must be exercised as to whether the child is competent to give her consent. If adjudged competent, the confidentiality of the child should be respected and proper support given in the light of her decision.

3.16 Furthermore, we note that Government statistics now show that the majority of pregnancies in those aged under 16 result in termination.^[12] CARE is extremely concerned about the psychological and, indeed, physical effects of abortion on women. We would argue that there needs to be a presumption that young women should be supported in their own decision and in no way encouraged to terminate a pregnancy.

3.17 CARE's experience with our network of more than 160 pregnancy crisis centres shows that women, including under-16s, are best helped to make their own decisions by supporting them through the 'crisis point' with non-directional counselling and the provision of clear information. This model, together with continuing and positive revision of adoption arrangements, would provide for a better range of options for young women than currently exist.

3.18 Part of CARE for Education's work has been to produce a number of educational tools for primary and secondary schools, which include sex education resources for pupils. We have developed a teaching programme called '*evaluate...informing choice*', which is a multimedia presentation giving schoolchildren an informed opportunity to choose for themselves about abstaining from sex. It is presented in a non-preachy, relevant way. *Evaluate* takes a holistic approach, examining both health and self-esteem issues. The programme helps teenagers to make good choices for themselves by exploring the issues – rather than just telling them not to have sex. In addition we have produced a resource called *Parents First*, a training package which focuses on the importance of parents having the first responsibility for their children's sex education.

3.19 We think the State has an important role to play in encouraging and resourcing parents to educate their children in matters of sexuality and sexual health. Parents are generally best placed to know when their child is ready for such instruction and how best to communicate it.

3.20 We would urge that State policy should avoid the implication that a child only develops fruitfully when educated by professionals – whether they be teachers, childcare workers or Early Year workers. In the long run there is potential for parents to abdicate their educational responsibilities by believing that their children are better nurtured and instructed by people other than themselves. Parents need to be encouraged and affirmed in their own educational responsibilities, and included in decisions affecting their children outside the home, for example within schools. We believe that it is vital to have clear and well-

maintained lines of contact between parents and professionals involved in the lives of children.

Issue 1c – What level of monitoring is required in relation to child protection? At what point is it appropriate for the State to intervene? What are the appropriate arrangements for tracking and information retention and exchange?

3.21 CARE recognises the complexity of the issues at hand, specifically in the context of the debate around Clause 8 of the Children Bill. While we do not consider ourselves expertly qualified to offer resolutions to those issues, it seems clear to us that the complex and multifaceted needs and problems of families cannot be resolved even by the most inventive systems and procedures for tracking and information exchange. Furthermore, it is unjust that Government should seek to resolve failures amongst children’s services with measures that may further threaten and undermine parents by, for example, setting low ‘thresholds of anxiety’ on information kept by statutory services.

3.22 As Stated at paragraph 3.8 above, we support the current threshold at which the State may intervene as set out in the Children Act 1989. The concept of significant harm is now well understood in English law. However, it remains essential that the ability of the State to intervene in family life is balanced against the equally important principle that:

“The integrity and independence of the family is a basic building block of a free and democratic society and the need to defend it should be clearly perceivable in law.”[\[13\]](#)

3.23 The then Lord Chancellor, Lord Mackay, went on to say that the test for intervention enshrined in the Children Act should not be regarded as grounds for an order but as *“the minimum circumstances which the Government considers should always be found to exist before...the State should be enabled to intervene compulsorily in family life.”*[\[14\]](#)

3.24 CARE echoes the comments of Lord Mackay in its belief that the integrity of the family unit should be respected by the State, with State

interference only occurring where absolutely necessary and in accordance with the principles advocated in this submission. We further contend that parents must be allowed to exercise their parental responsibility in ways which accord with their beliefs about how best to raise their children, provided always that such parenting does not fall below legally acceptable standards.

3.25 Although it is not possible (both legally and practically) for a care or supervision order to be made in respect of a child in utero^[15], CARE is of the firm view that the State's responsibilities towards children should begin from conception. Indeed, if the UK Government had not entered a reservation to this particular part of the Convention, then there would already be a responsibility as a signatory to the United Nations Convention on the Rights of the Child (UNCRC) the preamble of which states:

*[T]he child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, **before** as well as after birth.* [Our emphasis]^[16]

3.26 Again, Article 24 of the UNCRC upholds the view that children should be able to enjoy the highest attainable standard of health and, in particular, points to the need to "ensure appropriate pre-natal and post-natal health care for mothers".^[17] The need to ensure good health outcomes, therefore, is a matter of existing international agreement.

Issue 1d – In what way should the State be under an obligation to provide for families with specific support needs in bringing up their children, for example counselling, support in the home, child and adolescent mental health services, support for children with special needs?

3.27 CARE does not hold itself out as an expert in the fields outlined in issue 1d above. However, as a broad Statement of our general position, we would support Lord Laming's contention that it is "not possible to separate the protection of children from wider support to families" and that "the best protection for a child is achieved by the timely intervention of family support services."^[18] We, like Lord

Laming, would like to point out that improving the lives of children as a whole will depend on ensuring that parents, families and communities are well placed to care and to provide for their children.

3.28 We believe that we all benefit when families function well, and suffer when they do not. Research confirms this view. For example, the recent Green Paper on child contact cites research that shows, *inter alia*, that the likelihood of adverse outcomes for children from separated families is about twice that for other children; up to half of young offenders come from separated families; and girls from separated families are at greater risk of teenage pregnancy.^[19] The State therefore has an important role to play in providing services to support families and reduce the incidence of bad outcomes for those involved in adverse family situations. As we pointed out above, the underlying framework of law should not work so as to provide an incentive for couples to split up or a disincentive for them to come together.

4. Response to Core Question 2

To what extent is it right for parents to be held responsible for the actions of their children? Where should their responsibilities begin and end?

4.1 We agree with the widely held general presumption that parents are responsible for the actions of their minor children.^[20] The difficulty comes, of course, in determining at what point the responsibility for a child's actions passes from the parent to the child. Parental responsibility generally stands in inverse proportion to the maturity of the child. That is to say, a parent's rights, duties and powers in respect of their child diminish as the child matures towards adulthood. We support Lord Denning's view (expressed in his capacity as Master of the Rolls) concerning the changing nature of parental responsibility. To paraphrase, he said that the parent's role starts with bearing full responsibility for the child's actions and ends with the parent providing little more than advice to the child, with the child then taking the decision and bearing responsibility for doing so.^[21]

4.2 Policymakers should recognise that, while children are able to exercise volition, they are not autonomous. Children are wonderfully capable of making observations and decisions and generate solutions to problems of varying complexity from the early stages of development. However, they have limited procedural, declarative and factual knowledge so that they cannot always be burdened with a decision with regard to their own best interest. The role of

parents and healthy families is to help them towards the position of being able to take more complete responsibility for their own life through a process that is both gradual and not necessarily age based.

4.3 CARE, because of our Remand Fostering Scheme, takes particular interest in young offenders. It seems to us that this group is one of the most forgotten, vulnerable and unsafe in society. They are often subject to abuse by others, the consequences of poor decision-making on their own part and live with and in circumstances and environments that are not conducive to healthy and balanced lifestyles. A large proportion of our service users have lacked the vital dimensions of love, security and discipline that help young people grow, develop and take good advantage of educational opportunities that come with a family.[\[22\]](#)

4.4 A high proportion of young offenders bear the hallmarks of the socially excluded – unemployment, poor housing, low incomes, living in high crime environments, poor health and family breakdown. A significant part will live in local authority care.

4.5 Stakeholders must all play a part in reducing this number.[\[23\]](#) Part of any reduction strategy must be to support parents and families in order to ensure that children, where possible, are able to grow and mature in the context of a family. The testimony of many offenders is one of breakdown in familial relationships and difficulties in the home. CARE would argue that, in part, this is due to the erosion of relationship permanence within families and specifically the absence of fathers in many homes.

4.6 One of the issues raised under core question 2 is that of behaviour management, particularly in an education context. We believe that the core issue here is not at what point a parent ceases to be responsible for their child's actions, but how parents can be better resourced to help them deal with issues such as behavioural problems in their children. Again, this an area where soft State intervention can be employed to empower parents in ways which would help them effectively to meet their parenting responsibilities. It is important that State involvement attempts to deal with the root of such problems rather than just their symptoms, and that the parental role is affirmed and not undermined.

4.7 We acknowledge that there is a place for the sanction of the criminal law in exceptional cases where a parent has persistently failed to meet their responsibilities as a parent.[\[24\]](#) However, we otherwise prefer an incentive-based approach to issues such as those mentioned by the Commission. Incentives might be in the form of practical support for the family, or be linked to the provision of

welfare benefits. If we are to break the cycle of poverty and offending which we see in the lives of many of the young offenders (and their families) we work with, we need to use ways of 'selling' them a vision of a better path through life, and provide the incentives for them to keep to that path.

5. Response to Core Question 3

Should the role of the State in supporting and intervening in families be formalized and made transparent? If so, how far and in what way?

5.1 This question is framed in rather broad terms but, in the context of the issues covered in this response, we take the view that the role of the State in supporting and intervening in families should be formalized and made transparent. It is in the interests of all stakeholders that the nature and extent of the State's role should be clearly set out and understood. It is also essential, as a principle of natural justice, that the State's role (particularly, for example, in Child Protection Conferences and in care proceedings) is transparent and parents know the details of any allegations being made against them by the authorities. Furthermore, the profile and take up rate of State advisory and support services might be improved by increased formalization and transparency.

Issue 3a – What is the feasibility and scope of rights approaches in promoting and guaranteeing family support, including financial assistance and support in kind with the care of children?

5.2 CARE supports the assumption underlying all human rights legislation, namely that all human beings possess intrinsic value simply by virtue of their humanity, which must be protected and promoted by society.

5.3 The significant role of human rights in today's society cannot be ignored, but it is the view of CARE that they should be treated with caution. In particular CARE is concerned about the general trend towards manipulation of human rights away from the Christian ideals they originally represented. This has been achieved by both the increasing introduction of 'new' rights and a distorted use of the human rights terminology.

5.4 CARE also holds general concerns that a rights-based approach promotes acceptability of individual demands upon the rest of society. From a Christian perspective the emphasis for social improvement should be on

responsibilities rather than on an egotistical and selfish claim.

5.5 CARE believes that the tendency of human rights to dichotomise situations is exacerbated by the dual element within legal advocacy and court proceedings. They allow a struggle of powers to ensue and any possibility of negotiation or mediation to be overlooked. Conflict resolution, particularly in a family context, requires negotiation and compromise, not the 'success' or 'failure' outcomes provided by human rights that force members of society to take sides and deepen divisions.

5.6 We are particularly concerned about the increasing use of rights-based language to define the relationship between parent and child. We would draw attention to the original mischief which the European Convention on Human Rights sought to address, namely State oppression of the individual.

5.7 Similar concerns have also been expressed by senior members of the judiciary. For example, Sir John Laws has written that:

“A society whose values are defined by reference to individual rights is by that very fact already impoverished. Its culture says nothing about individual duty – nothing about virtue (sic). We speak of respect for other people’s rights. But, crudely at least, this comes more and more to mean only that we should accept that what someone wants to do, he should be allowed to do. Self-discipline, self-restraint, to say nothing of self-sacrifice, are at best regarded as optional extras and at worst (and the worst is too often the reality) as old-fashioned ideas worth nothing but as scoff and a jibe...”[25]

5.8 CARE considers that rights should always be balanced with responsibilities and that all people have a duty to reinvest in their local community. This is as true for young people as it is for anyone else.

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5.9 Familial relationships in every case are not based on a system of rights which can be enforced by one family member against another. A family functions best where it is founded on the values of mutual support, love, responsibility, sharing and selflessness. CARE does not believe that redefining the nature of family relationships from a rights perspective is conducive to a positive understanding of family life. We think that the State’s family policy should seek to foster the altruistic values mentioned above rather than encouraging reliance on rights which are essentially individualistic – the antithesis of how family members should act towards each other.

5.10 However, the relationship between the State and the individual is obviously different in kind to the relationships which exist between family members. We consider, therefore, that there is a role for human rights legislation to play in regulating the interaction between the State and the family (perhaps principally in protecting the autonomy and integrity of the family unit), provided always that this not deployed in ways which negate the selfless virtues of citizenship.

Issue 3b – Should there be a statement setting out the rights of families to support from the State to assist them in the upbringing of children?

Issue 3c – Should there be a statement of parents'/guardians'/families' responsibilities in relation to the upbringing of children?

Issue 3d – What should the status, legal or otherwise, of such a statement of rights and responsibilities be? Should it be legally enforceable or simply an information sharing tool?

5.11 Regarding issue 3b, CARE would be concerned about the possible effects of there being a statement of rights of support which would be legally enforceable in the normal way (e.g. through judicial review). Our chief concern is that it might reduce the sense of responsibility a parent should have for the upbringing of their children – a similar phenomenon to that of unjustified welfare dependency, where a capable individual becomes ever more reliant on the State and takes increasingly less responsibility for supporting themselves. What is needed is a statement which will buttress a parent's position by affirming that the responsibility for care of a child rests primarily with its parents, allied with effective supplementary support offered by the State (or independent service providers) where necessary.

5.12 In place of a statement expressing details of families' rights, it would be preferable for the State to set out an unequivocal formal statement of its responsibilities to support families in the upbringing of children. Whilst we appreciate that the doctrine of Parliamentary sovereignty means that no legislation is ultimately safe from future repeal, we consider that, for it to be effective, any statement of State responsibility would need to be durable and protected from the vicissitudes of our party political system. We owe it to families to provide continuity by maintaining a legitimate expectation of support from the State where it is needed.

5.13 We consider that there may also be value in drafting a statement of

parents'/guardians'/families' responsibilities in relation to the upbringing of children (issue 3c). Although evidence shows that marriage is still the most common form of partnership for men and women[26], and that in Spring 2003 78 per cent of children lived in a household headed by a couple[27], we recognize that there are many who have grown, or are growing up, outside a traditional family structure (couple families with dependent children). Furthermore, statistics showing a rise in court orders made in private and public law Children Act proceedings could be seen as indicative of a widespread diminishing understanding of the responsibilities that attach to parenthood.[28] There may, therefore, be benefit to be gained from a national restatement of familial responsibilities towards children.

5.14 There would need to be widespread consultation prior to the drafting of any such statement, so that a broad spectrum of opinion could be canvassed. The statement should take a holistic approach and address responsibilities in respect of the physical, social, spiritual, and mental aspects of the child. Any statement should be promoted as a model of best parenting practice, rather than as a set of rules which could attract criminal sanctions for breach.

5.15 CARE believes that whilst statements of rights and responsibilities can generally provide a useful public acknowledgement of principles, the deeper and more complex issues revolve around maintaining and strengthening relationships. Unfortunately, human rights language is unable adequately to describe, define, mediate or sustain complex and varied human relationships, and in that way it tends to have a limited role in actually making life better for individual children in individual families. This is why we also suggest investment in programmes which offer personal contact, help, advice and counselling through human interaction.

5.16 We believe that it would be beneficial to invest in families through local, community-based initiatives, such as those the churches provide, that will help parents to provide the best for their children.

Issue 3e – What other mechanisms might there be for making the relationship between the State and the family more formal and transparent?

5.17 Issue 3e concerns an area in which CARE does not have much involvement or expertise. However, we would comment that we think it is important to ensure that any information circulated to parents is not overly prescriptive, and that it reflects the choice of parents. Parents do not want to be lectured, but appreciate encouragement and support. Publicizing where to go for help may be more important than just publishing information.[29] For some people the establishment of good local relationships – predominantly community

and personal relationships, with additional support from State or Non-Governmental agencies, will be key.

5.18 As stated above it is our belief that different families will have different values inherent in the ways they would like to raise their children. Naturally some families will need help or advice at certain stages of their children's lives, and it is important that they receive advice and information which reflects and encompasses their values. In this way it is important that a diversity of values is reflected in the services and personnel available. This would indicate a Government commitment to parental freedom.

6. Concluding Remarks

6.1 CARE believes that the fundamental issue which lies at the interface between the State and the family is how can we help families and what is the best way to do so.

6.2 We consider that the focus of State intervention in family life should primarily be on providing support mechanisms to foster family wellbeing, and on maintaining an effective safety net through which vulnerable families, and especially children, should not be able to fall.

6.3 CARE hopes that the Commission's aim of bringing clarity to an increasingly challenging area of public policy will be realised through this consultation.



[1] For further information on CARE's work, visit www.care.org.uk

[2] 'Families educate the young and pass on to them identity, values and norms, social and practical skills, and an understanding of rights and wrongs.' p16, *The Family in Question*, Stein Ringen, Demos 1998

[3] For example, The British Household Panel Survey in 1995 found that cohabiting couples are almost six times as likely to split up as those who are married.

[4] The Oxford English Dictionary defines 'intervene' as: to interfere; come between so as to prevent or modify the result or course of events.

[5] For CARE's view on this issue see our consultation response 'Physical Punishment in the Home' January 2002 available at www.care.org.uk.

[6] The story was covered in detail by most, if not all, national newspapers on Thursday 13 May 2004.

[7] Article, Daily Telegraph 31/7/04.

[8] An example might be where the child has a reasonable fear of harm from the parent if they became involved.

[9] Published 30/7/04. Available from the DoH website at www.dh.gov.uk.

[10] We were concerned to note that guidance on abortion is included in a document purporting to deal with contraceptive services. As the guidance relates to abortion, its title should reflect this. Apart from being inaccurate and misleading, defining abortion as a contraceptive service is unhelpful as it sends the wrong message to young people about the respective functions of contraception and abortion.

[11] *Gillick v West Norfolk and Wisbech Area Health Authority* [1986] AC 112

[12] Figures for 2001 show that 4,398 conceptions led to abortion as opposed to 3,493 leading to maternity, *Social Trends* 34, 2004 edition, p.35.

[13] Lord Mackay (then Lord Chancellor), "Perceptions of the Children Bill and beyond" [1989] New L.J. 505 at 507.

[14] *Ibid.* at 506

[15] However, social services may convene a Child Protection Conference to consider pre-birth planning where it is considered that the child, once born, may

be at risk of significant harm.

[16] The Convention was ratified by the UK on 16 December 1991, and came into force in the UK on 15 January 1992.

[17] UNCRC Article 24 (2)(d)

[18] The Victoria Climbié Inquiry, www.victoria-climbié-inquiry.org.uk

[19] *Parental Separation: Children's Needs and Parents' Responsibilities*, July 2004, p.16.

[20] Such general presumptions are also supported in law by, for example, the provisions in the Children Act 1989 regarding parental responsibility.

[21] *Hewer v Bryant* [1970] 1 Q.B. 357 at 369

[22] See Social Exclusion Unit Report, *Reducing re-offending by ex-prisoners*, available at [www.socialexclusionunit.gov.uk/publications/reports/html/Reducing Re-offending](http://www.socialexclusionunit.gov.uk/publications/reports/html/Reducing_Re-offending).

[23] In our view, stakeholders include (but are not limited to) parents, grandparents, other family members, friends, GPs, social workers.

[24] For example, s444(1) of the Education Act 1996 provides that it is an offence to fail to ensure a child's regular attendance at school.

[25] Laws J., 'The Limitations of Human Rights' (1998) Public Law 254 at 255.

[26] *Social Trends* 34, 2004 edition, p.31.

[27] *Ibid.* p.27.

[28] Family Justice System Statistical Bulletin, 2002 data, Department for Constitutional Affairs, December 2003, pp.11-15.

[29] CARE's Caring Services department runs CARELINK, a helpline which provides a gateway to specialized services, and involves an extensive database.