

We are the World, we are the Children
Child Protection and Children's Rights in the Context of
Family Group Conferences

Nina Hagenauer, BA

Masterthese

Eingereicht zur Erlangung des Grades
Master of Arts in Social Sciences
an der Fachhochschule St. Pölten

Im April 2012

ErstbegutachterIn:

FH-Prof.ⁱⁿ DSAⁱⁿ Mag^a Christine Haselbacher

ZweitbegutachterIn:

FH-Prof.ⁱⁿ Mag^a Dr.^a Monika Vyslouzil

Abstract

Nina Hagenauer

We are the World, we are the Children

Kinderschutz und Kinderrechte im Kontext von Familienkonferenzen

Masterthese, eingereicht an der Fachhochschule St. Pölten im April 2012

Die folgende Masterthese beschäftigt sich mit Kinderrechten und Kinderschutz. Sie behandelt in einem ersten Teil die historische Entwicklung der Kinderrechtebewegung als auch die Struktur der daraus resultierenden Kinderrechtskonvention der Vereinten Nationen (KRK). Der Zusammenhang von Kinderrechten und Kinderschutz wird durch einen prägnanten Einblick in die Landschaft der Kinderschutzorganisationen in Österreich und, als Exkurs, Argentinien gegeben, wobei der Hauptfokus auf bereits implementierten Kinderschutzinstrumenten sowie gesetzlichen Regelungen liegt.

Der zweite Teil der Masterthese hat einen empirischen Anspruch und geht der Frage nach, welche Rolle „Family Group Conferences – Familienräte“ als Kinderschutzinstrumente und als ein mögliches Durchführungsinstrument von Kinderrechten spielen können. Es handelt sich um eine qualitativ durchgeführte Forschungsarbeit, basierend auf dem in Niederösterreich durchgeführten Pilotprojekt „Family Group Conferences“, in Zusammenarbeit mit der Jugendwohlfahrt St. Pölten und Amstetten, der Nichtregierungsorganisation „Rettet das Kind“ sowie Studierenden des Masterstudienganges Soziale Arbeit an der FH St. Pölten. Die durch Interviews erhobenen Daten wurden anhand des „Thematischen Codierens“ analysiert und die Ergebnisse in Kategorien ausformuliert (vgl. Fellöcker 2006:403f).

We are the World, we are the Children

Child Protection and Children's Rights in the Context of Family Group Conferences

The following Masters Thesis deals with Children's Rights and Child Protection. It addresses the historical development of the Children's Rights movement and the structure of the Convention on the Rights of the Child (CRC). Furthermore, it discusses the current legal statuses of the CRC in Austria and Argentina. In addition, the Child Protection landscape in both countries is presented. The focus here is set on already installed Child Protection instruments and projects, as well as existing legal enforcements and implementations.

The second part of the paper has an empirical approach. It investigates the role Family Group Conferences play as Child Protection Instruments and Children's Rights Enforcements. It is a qualitative research based on the implemented Pilot Project "Family Group Conferences" in Lower Austria. This project was realized in cooperation with the Youth Welfare Offices Lower Austria, the non-governmental organization "Rettet das Kind" Lower Austria and students involved in the Masters Program for Social Work at the University of Applied Sciences St. Poelten. Different data was collecting and analyzed through the process of the thematic coding (Fellöcker 2006:403f). The data used was collected through expert and guided interviews. In addition, relevant proceedings and protocols had been used. The results are summarized as categories.

Acknowledgements

I would like to thank all my close friends who have made the completing of this thesis possible. Without their support and patience it would have been a lot harder.

I would like to express my deepest appreciation to Laura S. Without her supportive way of providing feedback I would have never been able to complete and revise this thesis the way I did.

“A friend is someone who understands your past, believes in your future, and accepts you just the way you are.”

I also wish to thank my mother for her steady support during the last years, and my grandmother, who always believed in me, no matter what.

Special thanks should be given to my boyfriend and partner Jürgen K., who helped and supported me in many ways. Words alone cannot express the thanks I owe him for his encouragement and patience.

Preface

This thesis is part of the pilot project „Family Group Conference – the possibilities of participatory assistance“, realized in Lower Austria. Contents which could be required for better understanding of the concept “Family Group Conference” are discussed in depth in other theses and can be looked up there.

The whole project consists of the following theses, listed in alphabetical order of their authors:

Bauer-Unzeitig, Carina: Kinder und Jugendliche für voll nehmen! Über die Kinder- und Jugendbeteiligung im niederösterreichischen Pilotprojekt „Familienrat“

Geyerhofer, Michael: Family Group Conference – Familienrat - Ein Verfahren der Familienhilfe im Land NÖ

Hagenauer, Nina: We are the World, we are the Children - Child Protection and Children’s Rights in the Context of Family Group Conferences

Haslbauer, Julia/Richter, Veronika: Die Kunst keine schillernde Person zu sein – Koordination von Familienräten

Hinterbauer, Timo: „Sollte es wieder einen geben, bin ich sicher wieder dabei!“ - Familienrat erleben

Krigo, Edina: Pilotprojekt Familienrat – Sozialarbeiter_innen kommen zu Wort

Contents

1 Introduction	4
1.1 Explanatory Notes	5
2 Scientific interest	6
3 Child Protection and Children’s Rights – an overview	8
3.1 Violence against Children	8
3.2 The Realization of Children’s Rights Index	9
3.3 The difference between Child Protection and Children’s Rights	11
4 The United Nations Convention on the Rights of the Child (CRC)	13
4.1 Historical development	13
4.2 UNICEF	15
4.3 General Information and the Assembly	15
4.4 The different levels of acknowledgement: signed versus ratified	18
4.5 The United Nations Committee on the Rights of the Child	19
4.6 The world and Children’s Rights – status of ratification and signing	20
4.7 The Optional Protocols	21
4.7.1 Optional Protocol on the Involvement of Children in Armed Conflict (OPAC)	21
4.7.2 Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC)	22
5 Child Protection and Social Work	23
6 Child Protection and Children’s Rights in Austria	25
6.1 Children’s Rights	26
6.1.1 Legal status of the CRC	26

6.2 Child Protection	28
6.2.1 Youth Welfare Services	29
6.2.2 Family Group Conferences (FGC)	31
7 Child Protection and Children’s Rights in Argentina – an excursion	33
7.1 Children’s Rights	34
7.1.1 Legal Status of the CRC	34
7.2 Child Protection	35
7.2.1 Projects	36
8 The Scientific Approach	38
8.1 The Research Question.....	38
8.1.1 Defining the term Child Protection instrument.....	39
8.1.2 Defining the term Children’s Rights enforcement.....	39
9 Relevant Data	40
9.1 Data Evaluation – Thematic Coding	41
10 Presentation of Results	44
10.1. Visualizing of problems, deficits and solutions	45
10.2. FGC as a cost saving instrument	47
10.3 FGC as a protective mechanism	49
10.4 FGC as an informational tool.....	52
10.5 Empowerment of Juveniles and Children	54
10.6 Prevention of violence	56
10.7 FGC as an educational instrument and a tool for strengthening the self esteem	59
11 Conclusion	62
12 Bibliography	64
12.1 Grey Literature	69
13 Abbreviations	70

14 Table of figures	71
15 Appendix.....	72
15.1 The UN Convention on the Rights of the Child.....	72
16 Eidesstattliche Erklärung	86

1 Introduction

The following Master's Thesis was written in the context of the pilot project "Family Group Conference" (FGC) conducted in Lower Austria. The project was realized in cooperation with the Youth Welfare Services of Lower Austria and "Rettet das Kind" Austria. The eight students involved at the University of Applied Sciences in St. Poelten have investigated different topics in relation to FGC for over one year now.

The main focus of the presented paper is Children's Rights and Child Protection. For better reading the thesis has been divided into two parts.

1. A theoretical part where different terms get defined and which provides an overview of Children's Rights and Child Protection. The aim is to clarify differences and overlaps between individual terms and definitions, as well as imparting the reader with basic knowledge of specific terms used, existing laws and regulations and the current state of the Children's Rights Convention in terms of ratification.
2. This part specifically investigates the specific role "Family Group Conferences" play as an instrument for Child Protection and Children's Rights Enforcement. The collection of data, which was an essential part for this empirical study, and has been achieved through guided and expert interviews, meetings and observation records of "Family Group Conferences" conducted.

The process of analyzing started with defining categories, searching key words in the complete data set and finally building codes to ensure a scientifically valuable empirical study. To structure the data and develop codes, the qualitative data analysis software MaxQda has been used.

In the end, crucial results and findings concerning the role “Family Group Conferences” play could be found.

1.1 Explanatory Notes

The chosen literature for this paper used was in English. However, some books used were only available in German or Spanish. Therefore, any indirect quotations used from these books have been translated into English. Direct quotations are stated in the original language version before the English translation.

The interviews used for this paper were all held in German. As a result, any direct quotations used from these interviews are expressed in the original language before the English translation, in line with the literature quotations.

Some articles of the Children’s Rights Convention (CRC) are referred to in various chapters of this theses. To make this theses easier to read, all articles of the CRC can be found in Appendix.

2 Scientific interest

Whilst developing the first bachelor thesis the interest for the field of Children's Rights was started, and has not stopped ever since. When deciding which project to choose for completing the Master's Degree, the decision was made quickly, as "Family Group Conferencing" has a strong effect on children and their needs.

Participating in a pilot project such as the one based on the implementation of "Family Group Conferences" (FGC) in Lower Austria was the first step in a long process of developing curiosity for the field of Child Protection and Children's Rights.

In general, "Family Group Conferencing" is seen as a decision making model to help define which care is required for a family where children and juveniles may be at risk of or have already been subject to abuse or neglect. The family concerned works out a plan on how to deal with these problems and challenges (compare to Wijnen-Lunenburg 2008:8).

During the first months different thoughts and ideas were considered, wondering which ones to focus on. The starting point was questioning, what role Children's Rights may play for the implementation of new methods for Social Work. At that point, the plan was to conduct expert interviews during a semester abroad in Argentina and to complement the data collected there with additional interviews in Austria. Unfortunately, the data collected in Argentina had been insufficient, and therefore the process of finding a suitable and manageable research question started again.

Over time it became clear, that the main focus of the paper had to involve a strong theoretical input of Children's Rights and Child Protection. By spending six months in Argentina and having various experiences there, including field

work and networking with experts in the field of Human Rights, a small part of this thesis includes an overview on the situation of Child Protection and Children's Rights in Argentina.

The aim of this master thesis was to assess the role family group conferences (FGCs) may play in regards to child protection and children rights. To facilitate a more detailed understanding of the foundations within the laws and regulations the first part of this thesis provides an overview of the legal landscape in Austria as well as Argentina in regards to child protection and children rights.

The second part of the thesis has an empirical approach. Analyzing data collected through interviews and meetings made the building of categories related to the research question "which role FGCs play as child protection instruments and children's rights enforcement" possible. The results have thus been explained and confirmed through the use of quotes collected at the interviews.

3 Child Protection and Children's Rights – an overview

Child protection and children's rights are keywords often used when it comes to discussing child abuse, exploitation of children and/or children being endangered because of domestic violence or neglect. During the last decade, child protection workers have faced a dramatic increase in their workload and the scrutiny of the media intensified. Social Workers had to defend themselves and their profession on a regular basis (compare to Tomison 1995, cit. in Turnell 1999:12).

Through the increasing number of endangered children, the call for highly qualified child protection workers such as Social Workers, Psychotherapists and/or Social Pedagogues is getting louder. The media exploits cases of child abuse and shows great detail, which results in society's urge for stronger enforcement of Children's Rights and Child Protection.

To clarify the claim that Child Protection and Children's Rights have been applied all around the world, a short definition of forms of violence children may face will be given.

3.1 Violence against Children

“Children are the world's most valuable resource and its best hope for the future.” (John Fitzgerald Kennedy)

Children all around the globe are face different forms of violence. The violence may differ from continent to continent, country to country and culture to culture, but still has one thing in common: the cruel abuse of those who need the most protection from harm, our children. Since these maltreatments continue, action and protection plans need to be invented and implemented properly by governments.

The World Health Organization WHO defines violence in their “World Report of Violence and Health” (2002) as “the intentional use of physical force or power, threatened or actual, against a child, by an individual or group, that either results in or has a high likelihood of resulting in actual or potential harm to the child’s health, survival, development or dignity.”

The different forms of violence are:

- Physical violence,
- Psychological violence,
- Sexual violence,
- Neglect, and
- Combined special forms.

Each form of violence against a child is a violation of the Children’s and therefore Human Rights.

Now we have completed the definition of the different forms of violence. The next chapter will deal with the realization of children’s rights worldwide.

3.2 The Realization of Children’s Rights Index

The Children’s Rights Portal (2012) has created a “Map on the Respect of Children’s Rights Worldwide”, in accordance with the “Realization of Children’s Rights Index”.

- HIV ;
- Child labour ;
- Child marriage ;
- Female genital mutilation ;
- Registration of births ;
- Ecological impact on the future of children ;
- Rights and freedoms ;
- The feeling of satisfaction with life ;
- War and other violent situations...

(compare to Children's Rights Portal 2012a)

Looking at the map above it becomes obvious that children are being neglected and Children's Rights are not enforced all around the world on a daily basis. While the realization of children's rights is comparatively high in Europe compared to Africa and other continents, the question arises, how to improve the situation of children worldwide. Are Children's Rights just a bureaucratic instrument not suitable for enforcement? And which role does child protection play in this field? As we have completed the analysis of the realization of children's rights, the next subsection will deal the difference between child protection and children's rights.

3.3 The difference between Child Protection and Children's Rights

The Children's Rights movement and Child Protection movement have begun to rise at the same time, both having the same objective in mind: the well-being of our children and the acknowledgement of their rights.

At the beginning of the 20th century, the main focus of child protection was to end the neglect of children, which was seen as a female crime, due to the fact that mainly women took care of children. Over time, the intention to protect children strengthened by defining their rights, starting with the right to a loving

and caring upbringing, to a whole Convention on the Rights of Children (compare to Fegert et al. 2010:44ff).

Technically, Child Protection is considered a part of Children's Rights. Children have the right to live free from violence and to be protected from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child (compare to CRC 1989, Article 19).

The implementation of Children's Rights by local legislation defines, in exact words, what the government and society has to observe when talking about the protection of children. Firstly the term "Children's Rights" is defined and secondly these local regulations outline the need for the implementation of specific child protection organizations and services.

The sector "Child Protection" specifically aims to prevent, respond and resolve the abuse, neglect, exploitation and violence children experience (compare to Save the Children 2007).

Now we have completed the clarification of the difference between child protection and children's rights. As a next step the United Nations Convention on the Rights of the Child (CRC) will be analyzed, beginning with a brief introduction of the historical development.

4 The United Nations Convention on the Rights of the Child (CRC)

“Mankind owes to the child the best that it has to give.” (CRC 1989)

4.1 Historical development

In the literature one can find many different opinions and thoughts on origins of the development of the CRC came about. Nearly all of them agree that at least in Europe the idea of children having rights had already started in the 18th century and was continued to the French Revolution in 1789. During that year the 1st “Declaration of the Rights of Man and of the Citizen” was enforced. This declaration states that all human beings, even if they were not (yet) included in any legislation, were entitled to imprescriptible and unconditional rights (compare to Liebel 2007:13).

However, commonly the Geneva Declaration of the Rights of the Child, being declared on September 26th, 1924, is marked as the designated hour of birth of the international declaration of children’s rights. This declaration was the result of an initiative of Eglantyne Jebb, who at that time was the president of the British “Save the Children Fund” (compare to Veerman 1992:155, cit. in Liebel 2007:16).

Basically, the Geneva Declaration consists of 5 articles stating member states of the League of Nations are willing to do the best for all the children, regardless of their race, nationality and belief (compare to Liebel 2007:16).

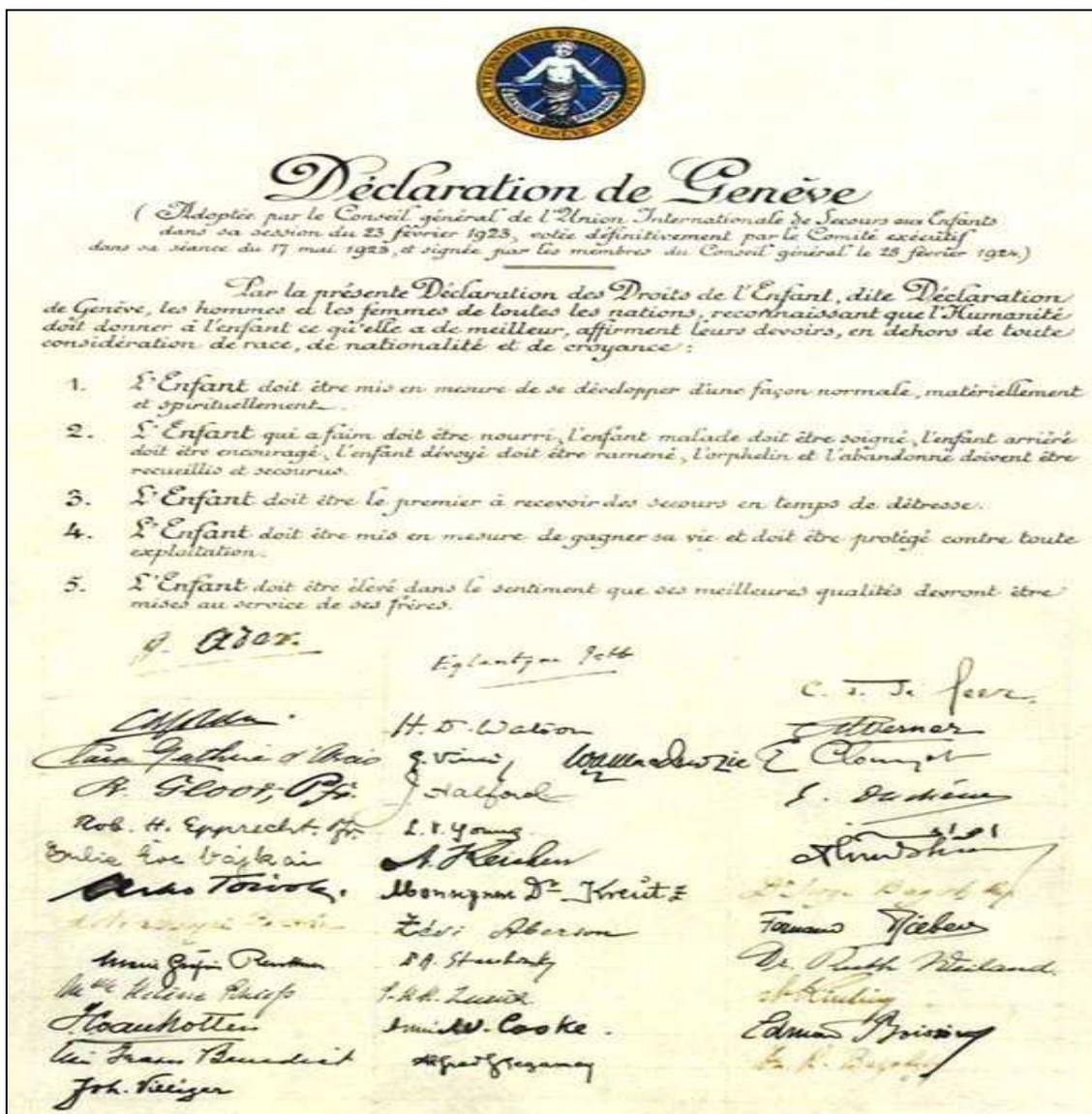


Fig. 2 (The Children's Rights Portal 2012)

After World War II, as thousands of children had been left in a dire situation, the discussion on how to protect children continued through non-governmental organizations NGO's and later the United Nations Children Fund (UNICEF). In 1959, the General Assembly of the United Nations adapted the Declaration of the Rights of the Child. Although its text had not been ratified by all member states it indicated the start of a new approach to children's rights. The United Nations declared 1979 as the International Year of the Child and finally, in 1989, the Convention on the Rights of the Child was adopted by the UN General Assembly (compare to Children's Rights Portal 2012).

“The Convention on the Rights of the Child is the text in relation to human rights which has been the most rapidly adopted. This text becomes an international treaty and enters in force on September 2, 1990, after being ratified by 20 states.” (Children’s Rights Portal 2012)

4.2 UNICEF

The organization mainly responsible for the CRC is the United Nations Children’s Fund, better known as UNICEF.

UNICEF was created in December 1946, shortly after World War II, to fight famine and diseases that affected children all over Europe. Its main responsibility at that time was to provide food, clothes and health care to children in need. In 1953 UNICEF became a permanent member of the United Nations, and has not stopped to strive for a better world for our children ever since. Its most famous achievement is, without question, the Convention on the Rights of the Child, established in 1959. This success was awarded the Nobel Peace Prize in 1965 “for the promotion of brotherhood among nations” (compare to UNICEF 2012).

Although today’s Child Protection Organizations are countless, UNICEF remains the worlds’ best known and most famous one, working in over 192 countries globally and cooperating with governments everywhere.

4.3 General Information and the Assembly

The CRC is the one and only instrument in the world that states children have rights and need to be considered as an important part of society. Experts working for NGO’s which try to enforce the ratification and importance of the CRC state, that although the Convention is necessary and an essential part of today’s world, the debate of its effect on national and international legislation is still up for discussion.

UNICEF defines the CRC as follows:

“The Convention on the Rights of the Child is the first legally binding international instrument to incorporate the full range of human rights—civil, cultural, economic, political and social rights. In 1989, world leaders decided that children needed a special convention just for them because people under 18 years old often need special care and protection that adults do not require. The leaders also wanted to make sure that the world recognized that children have human rights too.” (UNICEF 2011)

The Convention is formed of 54 articles as well as two Optional Protocols and outlines the basic human rights children should have all around the world. Its aim is to protect children’s rights by setting standards in health care, education, and legal, social and civil services. Overall, the Convention assures children everywhere the right to survival, develop to the fullest, being protected from harmful influences, abuse and exploitation, and full participation in family, cultural and social life (compare to UNICEF 2011).

The document of the Convention is split up into four main sections:

1. An introduction and explanation as to why the CRC exists. This chapter states the necessity of special protection for children, as pointed out in the Geneva Declaration of 1924 on the Rights of Children, and as addressed in the Declaration of the United Nations on the Rights of the Child 1959,
2. An outline of different civil, political, cultural, social and economical rights,
3. A section which discusses the application and the announcement of the Convention and the Committee on the Rights of the Child,

4. Details on the regulations of ratification and implementation of the CRC (compare to Ferenci 2012:5).

The Rights of Children as stated in the second part of the Convention can be divided into three further sections (compare to Ferenci 2012:5):

- Prevention, for example: children have the right to live, to good quality health care, to education, to leisure, play and culture, ...(compare to CRC, Survival and Development Rights),
- Protection, for example: children have the right to protection from all forms of violence, exploitation, abduction, sale and trafficking, the right to rehabilitation if affected by neglect, abuse or exploitation, ... (compare to CRC, Protection Rights), and
- Participation, for example: children have the right to freedom of thought, conscience and religion, they have a right to privacy, the right of access to information, ... (compare to CRC, Participation Rights)

Overall, every right listed in the Convention is worth the same. However, the Committee on the Rights of the Child (CRC Committee) states that the Convention is build upon four guiding or fundamental ideas (compare to CRC Committee 1919:13, cit. in Kilkelly 2011:180):

- Article 2: the provision for the right of the child to enjoy his/her Convention rights without discrimination of any kind,
- Article 3: the best interests of the child are primary consideration in all actions taken concerning children,
- Article 6: the right of the child to life, survival and development, and

➤ Article 12: the right to express his/her own view/opinion freely (compare to Kilkelly 2011:180).

For assuring a deeper understanding, the terms “ratification” and “signing” in relation to the CRC will be analyzed in the next subsection.

4.4 The different levels of acknowledgement: signed versus ratified

While the development of the CRC marked a big step in the advancement of Children’s Rights, without being legally binding it would be just another bureaucratic instrument. Therefore, all the member states that agreed to implement the Convention need to demonstrate their consent by officially signing before ratifying the convention.

The main difference between signing and ratifying is the effect on the legislation of the member state. Overall, signing means agreeing to the Convention without changing local legislation. UNICEF (2012) defines the term ‘Signature’ referring to the CRC as follows:

“Signature of a treaty is an act by which a State provides a preliminary endorsement of the instrument. Signing does not create a binding legal obligation but does demonstrate the State’s intent to examine the treaty domestically and consider ratifying it. While signing does not commit a State to ratification, it does oblige the State to refrain from acts that would defeat or undermine the treaty’s objective and purpose.”

For a Convention like the CRC to affect the local legislations and make a difference a government has to ratify it. For ratification a member state has to amend its domestic laws to reflect the Convention. With the ratification the government is obliged to report back to the Committee on the implementation on the Rights of the Child every five years, starting with an initial report two years after ratified the document (compare to UNICEF 2012).

UNICEF (2012) defines the term Ratification in regards to the CRC as follows:

“Ratification is an act by which a State signifies an agreement to be legally bound by the terms of a particular treaty. To ratify a treaty, the State first signs it and then fulfils its own national legislative requirements. Once the appropriate national organ of the country – Parliament, Senate, the Crown, Head of State or Government, or a combination of these – follows domestic constitutional procedures and makes a formal decision to be a party to the treaty. The instrument of ratification, a formal sealed letter referring to the decision and signed by the State’s responsible authority, is then prepared and deposited with the United Nations Secretary-General in New York. “

As stated above every state that has ratified the CRC provides regular reports to the Committee on the Rights of the Child. Therefore, a short definition of this institution will be given in the next chapter.

4.5 The United Nations Committee on the Rights of the Child

The Committee on the Rights of the Child was established in 1991 in accordance with CRC’s article 43 and consists of an elected committee of 18 independent, international experts. All member states that have ratified the CRC must provide regular reports to the Committee (2 years after the ratification and every five years subsequently). These reports include detail on how the situation of children’s rights has improved, which actions had been taken and an overview of the national situation of children. These reports will be examined by the Committee, assessing how well the governments set and meet the standards for the realization and protection in line with the rights of the children stated in the CRC. To facilitate this process the Committee has established guidelines for the states for structuring the reports:

- General measures of implementation,
- Definition of a child,
- Guiding principles,
- Civil rights and freedoms,
- Family environment and alternative care,
- Basic health and welfare,
- Education, leisure and cultural activities, and
- Special protection measures.

(compare to UNICEF 2012a)

Overall, the Committee functions as an advisory mechanism by keeping governments up-dated on how to improve the situation of the children in the particular state based on the reports provided compared to the objectives outlined in the CRC. The establishment of the Committee on the Rights of the Child improves the binding effect the Convention and its Protocols have on the authorities of the specific state (compare to UNICEF 2012a).

4.6 The world and Children's Rights – status of ratification and signing

At the time of writing this thesis all states of the world, apart from Somalia and the United States of America, have ratified the CRC. The two exceptions have signed but not yet ratified the CRC.

However, it is common for member states to ratify United Nations Conventions with reservation, understanding or declaration (so called RUDs). This status allows a state to become part of an international treaty, such as the CRC, but exempting itself from certain obligations (compare to Neumayer 2007:397).

Austria for example has ratified the CRC upon reservation and declaration. Further information will be given in section 6.1.1 of this thesis, where the subject Austria and Children's Rights will be discussed in more detail.

The description of the CRC is not complete without stating the importance of the two established Optional Protocols, explained under the next subsection.

4.7 The Optional Protocols

It is impossible to talk about the CRC and not mention the Optional Protocols (OPs) that have been established to complete the Convention. This is of critical importance, as these protocols address two other big issues children have to face every day:

1. (Commercial) sexual exploitation, and
2. Being affected by war in different ways.

In order to affect the local legislation these Optional Protocols also need to be ratified by the member state. By ratification a reporting process to the Committee on the Rights of the Child (similar to the reporting process of the CRC as discussed above) is initialized. A brief description of the two OP's is necessary to finalize the definition of the CRC.

4.7.1 Optional Protocol on the Involvement of Children in Armed Conflict (OPAC)

The aim of the OPAC is to support the implementation of the CRC when it comes to protect children from and during armed conflicts. The OPAC became legally binding on 12 February 2002. Once ratified, the member state has to ensure that all measures possible are being taken to avoid that children under the age of 18 are directly involved in hostilities. However, the OPAC does not establish the age of 18 as a minimum age of children to be voluntarily recruited to the army. Hence, each member state needs to define this age when ratifying the declaration (compare to UNICEF 2011).

4.7.2 Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC)

The OPSC became legally binding 18 January 2002 and provides detailed information about the requirements member states have to fulfill to combat and avoid the (commercial) sexual abuse and exploitation of children. Furthermore, the protocol contains certain rules as to how and especially who governments should punish for violation of the OPSC, as it is of specific importance to charge not only the active participant of the crime (the “seller”) but also the accepting part (“the buyer”). Most importantly, once the OPSC has been ratified member states are obliged to provide legal and other support services, such as necessary medical, psychological, logistical and financial support, to victims to ensure the best recovering, reintegrating and rehabilitating process possible (compare to UNICEF 2011).

Now we have completed the analysis of the CRC, its OPs and the different terms related. As children’s rights play a role in the daily work of social workers, subsequently, social work and child protection will be discussed.

5 Child Protection and Social Work

As for the definition of Social Work, the International Federation of Social Workers states that the profession promotes social change, problem solving in human relationships and the empowerment and liberation of people to enhance well-being. Furthermore, it addresses barriers, inequities and injustices that exist in our society and responds to crises and emergencies but also to everyday (inter)personal and social problems (compare to ISFW 2000).

The CRC and the therewith stated right of the child to live freely without any form of violence reflects exactly one of the core definitions of Social Work:

“Formulate and implement policies and programs that enhance people’s well-being, promote development and human rights, and promote collective social harmony and social stability, insofar as such stability does not violate human rights.” (International Federation of Social Workers 2012)

Social Work (and its incomparable combination of basic skills like parts of psychotherapy, social pedagogic and counseling) has proven to be the appropriate profession when it comes to working in a field as difficult and challenging as Child Protection has shown to be.

Working with vulnerable children is a challenge on its own, meaning it often is very emotional, involves working on the edge, feeling doubtful and powerless on one side, and mighty and mandatory on the other (compare to Munro 2008:12).

Although not universally applicable, most of the social service providers working in the field of Child Protection employ Social Workers.

As we have completed the description of the connection between social work and child protection, I would like to lead over to the role child protection and children's rights play in Austria.

6 Child Protection and Children's Rights in Austria

In this chapter, the current status of Child Protection and Children's Rights in Austria will be summarized. In addition, some effective Protection Measures and Projects, best practice examples if you will, will be introduced and described briefly. The aim is to define the Child Protection landscape a little bit more concretely and transparently.

The care for children is of high state in the welfare state of Austria. Numerous Child Protection Organizations (governmental and non-governmental) have been implemented throughout the years. It is safe to say that Austria is, compared to a lot of other countries, particularly developing countries, a safe and wonderful place to grow up and live for children. This assumption can be based upon the fact, that Austria is not affected by war, the economical situation is relatively stable and the implemented protection mechanisms provide good and supportive care for children and adults at risk. However, violence against children remains a topic in every state of the world. Austria is no exemption.

The ratification of the CRC is a first step in the right direction. It increases the visibility of the rights of the children visible and puts the implementation of necessary Child Protection and Violence Prevention programs and instruments on the agenda of governments.

The Children's Rights Portal (2012) summarized the main problems children in Austria have to face as follows:

- Poverty: around 1 in 10 children come from a poor background, most of them being brought up in mono-parental or large families,
- Child Trafficking and Child Pornography: Austria is known to be a famous transit country for traffickers selling children from the East to the rest of the

world. In addition, the country faces severe challenges because of the flourishing child pornography market,

- Child Abuse: violence in its various forms affects children all around the world, therefore also in Austria,
- Child Refugees: children who are orphaned by war and seeking asylum in Austria have to face a multitude of challenges and problems, due to language barriers and a severe lack of infrastructure and qualified personal.

6.1 Children's Rights

Children's Rights do not appear to be on the daily agenda in Austria. This does not mean to imply that these are not important and recognized, but Austria is a designated Welfare State and sometimes when comparing the situation of Austrian children to those in other states we tend to forget that all forms of violence and harm towards a child should be prevented.

Children living in Austria are able to enjoy a balanced and rather fair situation because many of their rights are recognized and implemented. However, certain areas exist where improvement could be made, as stated above.

Nevertheless, the realization of the Children's Rights Index gives Austria a rating of 9,18 out of 10 points, which supports the state that overall children in Austria are in a good position (compare to Children's Rights Portal 2012).

6.1.1 Legal status of the CRC

Austria has ratified the CRC on 6th August 1992, but with reservation. Over the last years, the discussions as to how to implement the CRC fully and without omissions have continued. In 2011 a new implementation plan for this objective has been developed and was presented to society and media. Nevertheless,

the new constitutional basis on which the ratification of the CRC will be based is highly controversial.

Sax (2011) claims, that “the concept presented is insufficient and incomplete. Only certain rights are registered while others, such as the right to health or material security, are missing. In general, the United Nation’s CRC is supposed to be based on a holistic approach and should therefore be implemented into the Austrian Constitution without reservation or declaration.”

The presented reservations by Austria are as follows:

"1. Article 13 and article 15 of the Convention will be applied provided that they will not affect legal restrictions in accordance with article 10 and article 11 of the European Convention on the Protection of Human Rights and Fundamental Freedoms of 4 November 1950."

"2. Article 17 will be applied to the extent that it is compatible with the basic rights of others, in particular with the basic rights of freedom of information and freedom of press."

(UNICEF CRC Status Ratification 2012:4)

The Children’s Rights Portal (2012) explains that those two restrictions by Austria concern the freedom of speech and assembly. Austria has added that these rights of children could be subjected to further restrictions (mainly those brought forward by the European Court of Human Rights) and that these rights should not restrict the “freedom of others” or negatively impact other fundamental rights.

The presented declarations are as follows:

"1. Austria will not make any use of the possibility provided for in article 38, paragraph 2, to determine an age limit of 15 years for taking part in hostilities as this rule is incompatible with article 3, paragraph 1, which determines that the best interests of the child shall be a primary consideration."

"2. Austria declares, in accordance with its constitutional law, to apply article 38, paragraph 3, provided that only male Austrian citizens are subject to compulsory military service."

(UNICEF CRC Status Ratification 2012:4)

To summarize, Austria declared that it would not implement the standard outlined above to allow the participation of children above the age of 15 in armed conflicts (compare to Children's Rights Portal 2012).

In other words, in Austria only persons over the age of 18 are allowed to participate in armed conflicts, as children are defined as any person being aged 0-18 years.

Those reservations and declarations have an effect on the implementation of certain articles of the CRC. Thus, while one cannot refer to the CRC in front of authorities or the court, all local laws have to be in line with the Convention (compare to Ferenci 2012:6).

6.2 Child Protection

As stated earlier, there are numerous Child Protection Organizations and Initiatives in Austria in existence. In the field of Child Protection certain instruments have been established, for example "Child Protection Groups" (Kinderschutzgruppe) in hospitals, or "assisted living groups" for children. For the purpose of this thesis two groups have been selected from the existing organizations and instruments:

1. Family Group Conference (FGC), as the empirical part of this paper will address the role Child Protection and Children's Rights play for this concept, and
2. Youth Welfare Services, which are closely linked to the implementation of FGC in Austria.

In addition to the different Child Protection Institutions and Organizations it is necessary to keep the main law on the protection of children in Austria in mind: the so-called *Jugendwohlfahrtsgesetz (Youth Welfare Legislation)*. Every Austrian state has its own specific Youth Welfare Legislation. As this paper was written in the context of a pilot project realized in the state of Lower Austria, the main focus of this thesis will be on the Youth Welfare Legislation of Lower Austria.

The Law for the Protection of the Youth of Lower Austria was implemented in 1991 and renewed and adapted in 2009. It includes age-specific regulations concerning the access of children and adolescents to certain places, hitch-hiking, theatre, cinema and pub-visits, the use of arcade and gambling machines and the consumption of tobacco products and alcoholic beverages (compare to the Federal Ministry of Economy, Family and Youth BMWFJ 2012).

6.2.1 Youth Welfare Services

The most well-known representative for Child Protection in Austria would be the Youth Welfare Services, which are part of the Federal Ministry of Economy, Family and Youth BMWFJ (compare to BMWFJ 2012). It is safe to say that nearly every citizen knows it, has heard about it or knows what the remit of this institution is.

Overall, the Youth Welfare Offices in the different political districts and cities offer specific services and advice in relation to Child Protection. This includes

but is not limited to measures of maternity-, infant- and youth welfare to facilitate the well-being of the child. An important area for the Youth Welfare Services is the preventative field, where many different services are offered to individuals, including (fair-minded) advice, support, help, guidance and parental education. (compare to BMWFJ 2012).

The importance of the Youth Welfare Services can be evidenced by statistical information available. Below are the statistics of all families who have received support by providing educational assistance and children being brought up in children's homes as examples. Those figures are valid for all of Austria, as stated by the Youth Welfare Report 2010, taking into account that based on the report, 2010 the total number of inhabitants in Austria was 8.375.290, 1.541.746 being children aged 0-18:

Age and Sex of the underaged	Educational Assistance (as for 31.12.2010)		Children in Children's Homes (as for 31.12.2010)	
	Because of agreement	Because of Court Order	Because of agreement	Because of Court Order
All of Austria				
Aged 0-5 years				
female	2.563	43	133	87
male	2.849	41	155	126
combined	5.412	84	288	213
Aged 6-13 years				
female	5.963	66	828	407
male	7.754	80	1.273	452
combined	13.717	146	2.101	859
Aged 14-18 years				
female	3.283	36	1.185	288
male	3.741	38	1.413	278
combined	7.024	74	2.598	566
Total Number of Underaged 31.12.2010	26.153	304	4.987	1.638

Fig. 3 (compare to Youth Welfare Report 2010)

Most of the official national research on young people, children, family violence and other topics concerning family issues (Youth Welfare Reports, overall reports on children and adolescents) are completed through the BMWFJ.

Although the different Youth Offices are directly responsible to the BMWFJ, these still have some financial scope and are entitled to implement new social work methods or projects. This was applied in Lower Austria with the pilot project of Family Group Conferences, and will be specified in the next chapter.

6.2.2 Family Group Conferences (FGC)

In Austria, the implementation of FGCs has only started recently. The pilot project in Lower Austria, in cooperation with “Rettet das Kind” (a non-governmental organization) and the Youth Welfare Services, has just been completed. Furthermore, “Neustart Austria”, an organization for probational services and victim-offender-mediation (außergerichtlicher Tatausgleich), has started its own pilot project of FGC a few months ago.

Although famously implemented into legislation in New Zealand several years ago, Family Group Conferencing is a new approach in Austria. The idea of involving all family members and/or friends of the affected child or children to be part of the decision making when it comes to protect the young seems strange and illogical at first. At a second glance it does make sense (compare to Conolly / McKenzie 1999:4).

FGCs are an innovative method of making decisions regarding the welfare of children and young adults. The fundamental idea of calling for a FGC is that families know themselves and their living situation best, even if they are vulnerable and violence occurs.

Typically, the conference is planned and organized by an independent coordinator, who sets the date for the conference and invites the family

members as well as close friends and neighbors. The actual conference is split up into three parts:

1. The first part, where professionals, such as social workers and psychologists are present and discuss the situation with the conference attendees,
2. The second and most important part, where the family is on their own (Family Time) with the aim to develop a plan to address the issues discussed earlier, and
3. The third part, where the professionals are invited back in to assess and agree to the plan the family has designed, as long as the child's welfare is not endangered

(compare to Holland / O'Neill 2006:92).

The extend to which children should be involved into the process of FGCs is still up on debate. The role FGCs play as Child Protection Instrument and Children's Rights enforcement will be discussed in Part II of this paper.

As we have completed the analysis of the situation in Austria, we will now spotlight the situation of Child Protection and Children's Rights in Argentina.

7 Child Protection and Children's Rights in Argentina – an excursion

By completing one semester of my master degree in South America I got the opportunity of diving into another society and another world and way of living. The differences could have been hardly more noticeable, whereas in Austria child protection is mainly mentioned when it comes to violent family environments and abusive behavior, in Argentina the discussion about children living on the streets, selling goods to strangers for survival are omnipresent.

When comparing the situation of the CRC between Austria and Argentina it may appear that Argentina does not care for the situation of its children at all or not enough. Having talked to an expert in the field of Human Rights and Children's Rights evidence showing a different assessment was found: the two countries as different as Austria and Argentina, considering the historical evolution and social development, cannot be compared at one glance. It is imperative to carry out a more in depth analysis to find that there is more to a country than its appearance at first sight.

Argentina faces different problems compared to Austria, as society, the social system and the economic situation differ.

The Children's Rights Portal (2012) summarizes the situation children face in Argentina as follows:

- **Poverty:** approximately 30% of the population live below the poverty line, with most of them living in rural areas, where children often live in poor health and with little access to higher education

- Violence in Education: a significant number of children are held back from access to education or drop out early, mainly because of poverty and therefore being unable to afford education
- Health: Argentina shows a high rate of infant mortality. There are 10,81 deaths per 1000 births, whereas for example in Austria there are 4,32 deaths per 1000 births (compare to Index Mundi 2012)
- Child Labour: children from poor families are sometimes forced to drop out of school to work and help their parents provide food for the rest of the family. Around 7% of children between the age of 5 and 14 are facing child labor. The worst-case scenario is children being forced into prostitution.

They way Argentina addresses Children's Rights and the CRC is summarized in the following chapters.

7.1 Children's Rights

Argentina used to be an upcoming country until an economic crisis struck the country down in 2001. Since then Argentina has been defined as a developing country characterized by a significant gap between rich and poor and the absence of a middle class. This situation involves adults as well as children: poor children are discriminated and some of their rights are violated. The realization of Children's Rights Index shows 8,27 out of 10 points, which is reasonably good but highlights noticeable problems, as mentioned in the previous chapter (compare to Children's Rights Portal 2012).

7.1.1 Legal Status of the CRC

Argentina has ratified the CRC on 4th December 1990, but like Austria and other countries, with reservation and declaration.

The reservation made upon ratification deals with article 21 of the CRC. However, as detailed above, this reservation allows the adoption of the CRC (compare to UNICEF CRC Status Ratification 2012:4).

The three declarations Argentina made dare in respect of the implementation of the CRC into the legal system. In the first two declarations Argentina states that the word “child” in the sense of the convention has to be understood as “any human being at the time of conception until the age of 18”. This had a great effect on discussions in relation to abortion. Argentina further added that the convention would have to, in that sense, “formally forbid the use of children in armed conflicts”. In its final declaration Argentina stated that “it is the State who must take appropriate measures to counsel, educate, and inform parents about responsible procreation” (compare to Children’s Right Portal 2012).

7.2 Child Protection

Child Protection is a big topic in Argentina, as the country faces difficulties like child poverty, child labor and infant mortality.

The main governmental plan on child protection and family involvement is called “Plan Familias”:

“El Programa Familias por la Inclusión Social, es un Programa Nacional que tiene como objetivo fundamental promover la protección e integración social de las familias en situación de vulnerabilidad y riesgo social.” (Misiones Desarrollo Social 2012).

“The family program for social inclusion is a national program which promotes the social protection and integration of vulnerable families and the ones at the risk of social exclusion.” (translated from Misiones Desarrollo Social 2012)

Of further importance is the Ley Nacional, the National Law Act on Child Protection. It states, that the implementation of the Protection of the Rights of the Child and Children has to be through coordinated actions that are by national, federal and provincial governments. This protection program was developed by the Ministry of Social Development together with the National Secretariat for Children, Youth and Family; Ministry of Justice, Security and Human Rights; Ministry of Work, Employment and Social Security; Ministry of Education Public Defender's Office and Attorney General's Office (compare to UNICEF Argentina 2012).

A youth welfare system, meaning implemented youth welfare offices and a youth welfare legislation, like the one in Austria, does not exist in Argentina. The "Ley Nacional", cannot be compared to the Austrian Youth Welfare System.

The "Ley Nacional" was enacted in 2005 to ratify the CRC, and provides the fundamentals for a juvenile justice system. In addition, it calls for the reintegration of institutionalized children back into society and establishes various mechanisms to protect children from abuse and exploitation. Although those are important first steps to a good and fair legal system, the juvenile justice system still needs to be fully reformed. For example, the punitive juvenile regime does not consider the special needs of children and adolescents (compare to Library of Congress 2012).

7.2.1 Projects

In Argentina, the number of Child Protection Projects or Children's Rights Organizations is even higher than in Austria. A lot of people work for NGO's which try to help the country's poorest: the people living in so-called "Villas", like the Villa 31 in Buenos Aires. These areas are also known as slums or ghettos, and are infamous for the high crime rates, child poverty and child labor.

Most of the projects in the Villas have the aim to support children in dealing with the educational system. This is realized by assisting children with their homework, but also by using social work and social pedagogic methods to keep them from dropping out of school. In addition, these projects have a preventive element, as they try to keep children busy and active and therefore they stay away from drugs and the child labor market.

NGO's have also discovered Argentina as a market for Social Initiatives. Reams of them work in multi-faceted areas, such as children's homes, streetwork, working with disabled children and adults, educational support for children and many more.

This paper is not exhaustive in regards to the different projects and NGO's, as there are too many working in the field of Child Protection. This emphasizes once more the objective of improving the situation for children in Argentina.

Now we have finalized the theoretical part of this master thesis. Subsequently, the second part of the thesis, the empirical part, will be introduced, initialized through declaring the scientific approach.

8 The Scientific Approach

My interest in the field of Children's Rights and Child Protection has arisen during a long-term internship working for the NGO ECPAT in New Zealand that fights the commercial sexual exploitation of children. ECPAT stands for "End child prostitution, child pornography and trafficking of children for sexual purposes". Over time the interest in the field got stronger and more intense and the voluntary work continued by working for the Austrian branch of ECPAT. The Masters Program for Social Work and the participation in the Project of Family Group Conferencing further enhanced the interest.

During my semester abroad in Argentina the following questions emerged:

- In what way are Children's Rights a topic in the field of Social Work?
- Do Social Workers use the Children's Rights approach in their daily work?
- What role does the CRC play in the field of Child Protection?
- How do the different professions implement CRC, if these play a role in the field of Child Protection?
- Which role do Children's Rights play in the implementation process of new Social Work Methods?

8.1 The Research Question

As a result of working through the questions outlined above and by conducting an interview with an expert in the field of Human Rights in Argentina, the final research question was generated as follows:

"Which role do Family Group Conferences play as a Child Protection instrument and Children's Rights enforcement?"

8.1.1 Defining the term Child Protection instrument

The Longman Dictionary of Contemporary English (2005) defines the term “instrument” as a method of something or someone used to get a particular result.

Therefore in the context of the research question a Child Protection Instrument can be seen as a method of implementing Child Protection by using Family Group Conferencing as a tool to achieve this objective.

8.1.2 Defining the term Children’s Rights enforcement

The term “enforcement” is defined as the action that is set to make people obey a rule/law etc. (compare to Longman Dictionary of Contemporary English 2005:517).

In other words, a Children’s Rights enforcement can be seen as the process of using the CRC in practice. This means, that at least some articles of the Convention are considered and used when applying Family Group Conferencing.

9 Relevant Data

One expert interview had already been carried out in Argentina prior to finalizing the research question. This interview concentrated on Children's Rights and their relevance in Argentina. Unfortunately, further interviews in South America could not take place due limited time available. After finalizing the research question the process of assessing which data could be useful and should be collected commenced.

The decision to write a scientific diary proved to be a very efficient way of identifying other options. It was used to collect the necessary information about the field, as well as ideas on relevant literature, and last but not least, personal notes on the progress.

The pilot project of Family Group Conferences in Lower Austria has been realized in cooperation with a master course for social work at the University of Applied Sciences in St. Poelten. This meant that every student who participated collected data from the pilot project. The data was then shared through an online data base to make it available to all participants in the project.

After finalizing the research question and completing the identification of relevant literature such as related laws and regulations and annual reports of mentioned organizations, relevant interviews and proceedings collected by other students, were reviewed and selected appropriate. This decision was made as the main topics of this paper, Child Protection and Children's Rights, could be found in all the data material. Due to the extensive number of interviews and proceedings the question arose as to how to evaluate the material.

9.1 Data Evaluation – Thematic Coding

After talking to experts for qualitative analysis it became apparent that the only way to evaluate the available data in the most appropriate and useful way would be to apply the “thematic coding”. This approach has been summarized in the diagram below:

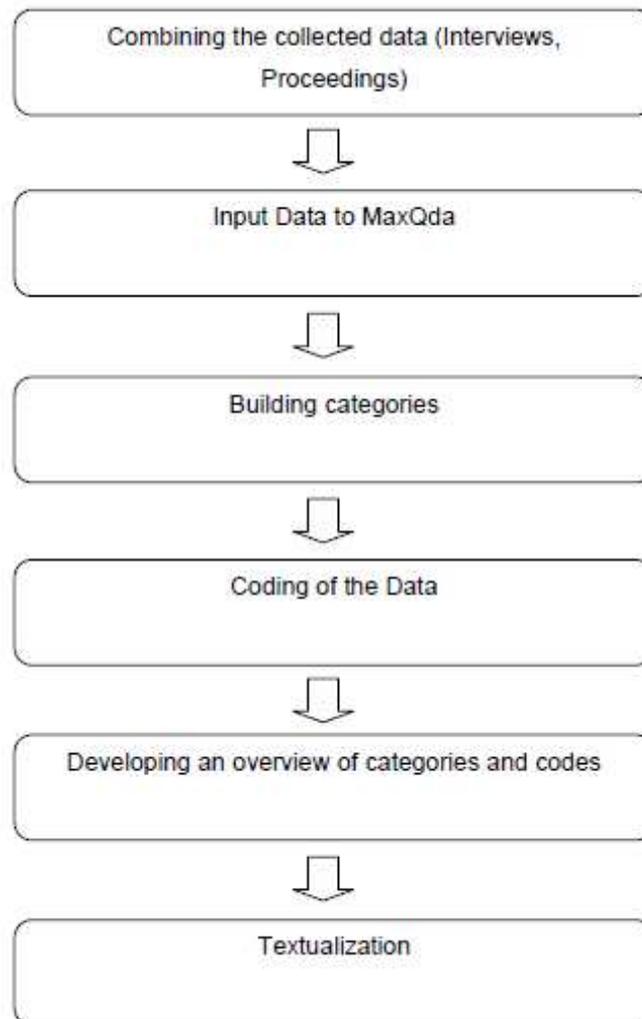


Fig. 4 Process of Thematic Coding

Overall, the thematic coding follows four main steps:

1. Building of categories,
2. Coding of the data,
3. Developing an overview of categories and codes, and finally
4. A detailed analysis of cases chosen (compare to Fellöcker 2006:403f.).

The first step to evaluate the vast quantity of data was to upload the transcribed interviews, collected proceedings and protocols to MaxQda.

“MAXQDA is a qualitative data analysis software-also called QDA software-which supports all individuals performing qualitative data or content analysis by helping to systematically evaluate and interpret textual data.” (MAXQDA 2012)

This tool was chosen as it facilitates the analysis of large data and works with this in one document. Furthermore, it can be challenging to keep track of numerous data sets. By using MaxQda all data is uploaded into one program and allows access to all data, such as interviews, proceedings or protocols at any point in time.

For this paper the process chosen during coding was to search the data set for key words based on the research question. Particularly the data has been searched for “Child(ren)”, “Child Care”, “Child Protection”, “Children’s Rights” and “Rights”. A more detailed analysis for these key words allowed the elimination and / or adaption of some categories. The final categories with sufficient and relevantly coded material were:

- The Visualizing of problems, deficits and solutions,
- FGC as enlargement of the CRC,
- FGC as a protective mechanism,
- FGC as an informative tool,
- Empowerment of juveniles and children,

- Prevention of violence
- FGC as an educational instrument and a tool for strengthening the self esteem of children

10 Presentation of Results

The data sets collected were evaluated based on the research question stated above. Subsequently, the findings are demonstrated as categories with the support of relevant quotes from the data set and summarized at the end through conclusions and hypothesis. The process demonstrating the findings ought to be seen as follows:

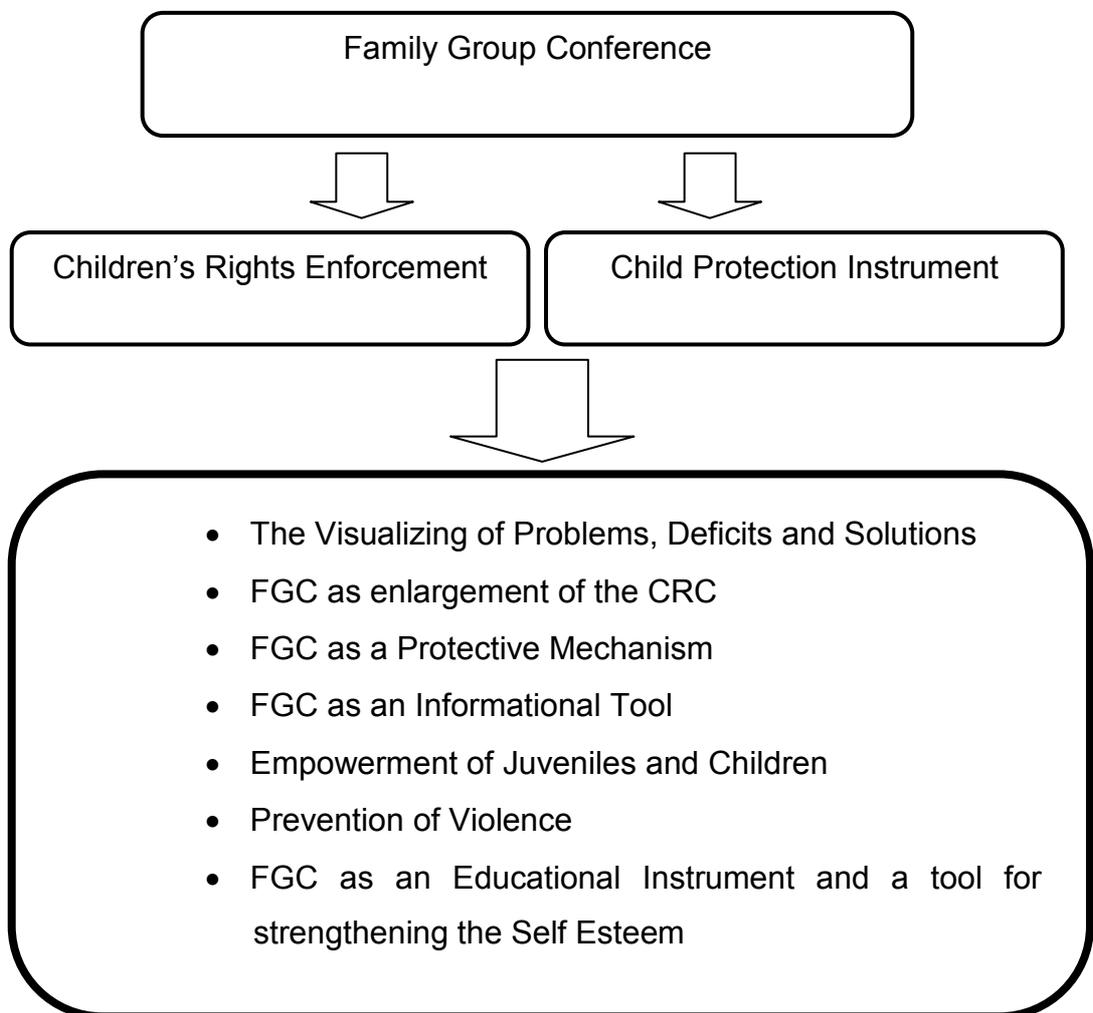


Fig. 5 Visualization of the research question

10.1. Visualizing of problems, deficits and solutions

When working through the data collected, one of the first obvious findings was the verbalization of different challenges children face within their families. This fact not only relates to families and children being at risk, but actually to every family. Nevertheless, families who are exposed to the Youth Welfare System are the ones affected at first.

Children in every family should have the right to communicate their ideas and problems to the parents and/or other family members, especially if they are affected by (severe) problems or deficits. What we see in reality is that the voice of the children not heard or too silent to be recognized.

FGCs do not only address the issue of Child Protection but were found to be an alternative to taking away the child from the family. This is due to the fact that they can uncover problems, deficits and solutions more thoroughly than thought at first. The activation of the family networks marks a big milestone. We see the obvious, but forget to look deeper. In the context of this paper we see the bruises but not the secret wishes, thoughts and hopes.

In one of the interviews, the coordinator of the FGCs stated:

„...gsagt hat, er [das Kind] hat so a Angst, wenn er was angestellt hat, dass er den Papa verliert. ja. Des hat zwar jetzt im Nachhinein ka so a große Wirkung ghabt, aber i find des war a Moment, wo der Bua hat können was zum Ausdruck bringen, was so nu nie wer vorher kapiert hat.“ (Koo_Int03b: 00:43:27-7)

“...has said, that he is so afraid to lose his father, once he has done something bad. Now afterwards, this didn't have such a great influence, but I think it was the moment the boy finally expressed something nobody ever thought and realized before...”

Thinking of another case, the coordinator stated:

„...die Jennifer, wie di gsagt hat, sie will einfach, dass die Eltern nimmer streiten.“ (Koo_Int03b: 00:44:13-8).

“...Jennifer, when she said, all she simply wants is for her parents to not fight anymore.”

Sayings like the ones above were found in many interviews. However, the chosen ones confirm the findings the best.

Not only can FGCs be seen as an instrument to discover problems and deficits, but also as a way to identify better and more suitable solutions for everybody, including the child. This includes solutions, that might not have been found without using FGC, as stated in various interviews by Social Workers, like the following quote:

„Ja super. Also besser als, als ich ma dacht hab. Besser als mei, mei Lösung immer die ich versucht hab mit der Familie gemeinsam zu erarbeiten, also im Familienrat hat si ganz was interessantes, diese Lösungen waren viel besser und viel vielfältiger als natürlich i jetzt mit der Familie hätt erarbeiten können, des war amal das positive dran. (Soz_B: 00:11:17-4).

“Well great. Better than I expected. Better than any solution I tried to develop together with the family. During the FGC something very interesting happened as the solutions were far better and more multifaceted than whatever I could have developed with the family. That was the positive thing about it.”

In problematic family situations with children being involved, the main focus is often to try and solve the issue by talking to the adults involved only. The main question related to the Children’s Rights enforcement is - what about the children and their voices? Are they being heard?

Taking the research question into account, we can summarize that FGCs can actually be seen as an enforcement of Article 12 and 13 of the CRC. These articles state that

- It shall be assured, that children have the right to freedom of expressions, which includes the freedom to seek, receive and impart information and ideas of all kind,...

- It shall be assured 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...

(compare to CRC Articles 12 and 13)

10.2. FGC as a cost saving instrument

To install child protection systems effectively can be expensive. In the light of the global financial crises which also affects Austria the aim is to install systems and instruments in all areas to assist the State to save money. Throughout the last few years society could not help but notice the need for improvements and changes in the existing systems, especially the Social and Youth Welfare System. Cases like the emotional story of three-year-old “Cain”, very openly and controversially discussed in Austrian media, have promoted these changes. Social Workers have been blamed for not caring enough and not being aware of Child Protection issues but rarely do we assess and accept the hidden fact, that they find themselves in hopeless situations where they do not have enough time or resources available to address issues appropriately.

Everywhere the discussion is being held up as to how to make the youth welfare system more effective. As the data shows FGC is a new method employed in social work that could help save money and relieve the pressure on the Social Workers. In fact, Social Workers who have been involved in the pilot project in Lower Austria claimed, that FGC was relieving the work burden:

„I1: Bringt der Familienrat für Sie eine Arbeitsentlastung oder wird das oder ist es ein zusätzlicher Aufwand im Vergleich zu anderen Maßnahmen. B: Also in der Form wie er jetzt stattgefunden hat ja ich würd sagen Arbeitsentlastung.“ (Soz_A: 00:14:42-3)

“I1: Does the FGC relief the burden of work or does it increase the efforts required compared to other methods used. B: Well, being held the way it was here I would say it is a relief.”

FGC can relieve the work burden as families may find practicable solutions for themselves. Without FGC, other instruments, such as educational support, can be applied. These can be avoided and associated costs could be reduced by holding a FGC, as mentioned in various interviews held with Social Workers. The organization and holding of a FGC is of lower cost compared to other child protection instruments, such as educational support or the (temporary) placement of a child. One of the social workers stated:

„I2: Und durch das Ressourcen, durch dieses Benützen der Ressourcen der Familie hat man sich Erziehungshilfe in einem gewissen Ausmaß erspart wahrscheinlich,...(Soz_B: 00:34:26-9)

„I2: And through the resources, through using the resources of the family, educational support could maybe be spared to a certain extent, ...”

„I2: Also resultiert für die öffentliche Hand somit eine Einsparung durch den Familienrat oder eine zusätzliche Belastung durch Inanspruchnahme von zusätzlichen...B: Würd ich auf jeden Fall sagen. Eine Entlastung.“ (Soz_B: 00:34:58-5).

“I2: Well, as a result FGC saves costs or does it cause more costs through the usage of additional....B: That’s what I’d say. A relief.”

Concluding based on these facts from analyzing the data collected and adding it to the information found in literature, the hypothesis is that FGC saves money compared to other youth welfare instruments. Families have been found to invent more effective strategies (for themselves) compared to others taking the lead, for example Social Workers or other Professionals.

This situation can actually remind us of what Mahatma Ghandi once said:

“We must become the change we want to see.”

10.3 FGC as a protective mechanism

Child Protection implies the use of a protective mechanism. This conclusion can be made by looking at the two related terms “protection” and “protective”. Also, a mechanism requires that there is someone or something to control the use of it. However, a protective mechanism can only be implemented by people who are not involved in the current (dangerous) situation.

Until now, when discussing the situation of families who are known for their violent behavior and whose children might be at risk of neglect or abuse, there was a tendency of making a “professional” decision on how to continue. The well-being of the child is considered to be the first priority, and the youth welfare office tries using whichever means necessary to assure it. Considering the amount of cases which require significant attention from the social worker and the youth welfare office involved in order to guarantee the well-being of the child, the question is whether there is another way of guaranteeing an effective protection of the child or children.

FGCs have proven to be very effective and to have a lasting effect considering the protection of children.

Often the first step towards holding a FGC is the so-called “Verbalization of worries” (*Sorgeformulierung*), which is expressed and written down by the social

worker. The aim of this verbalization is to prevent the family as well as the involved social worker involved from losing track of the main problems. The designated coordinator will then together work collaboratively with the immediate family try to find additional family members, friends and/or neighbors who would like to participate in the FGC as supporting and caring “others”. This activation of the family’s network is the main point (compare to Hilbert et al. 2011:12f.).

Several statements concerning the issue of networks can be found in the data:

„Und die ham gsagt, der Familienrat war super, weil ähm, wir alle vernetzt waren unter einander.“ (Koo_Int03b: 00:18:02-7)

“And they said, the FGC was great, because everybody was linked to one another.”

„Na des Besondere is, dass eigentlich ah.. endlich amol.. die gonze Familie oder der Bekanntenkreis mit dem was ma vü Kontakt hot, olle on einem Tisch sitzen und sie olle unterhoiten und Gedanken mochn und so“ (Fam01_Int02: 00:08:26-9)

„The special thing is, that actually,...finally, the whole family or the circle of friends with whom you want to be in contact are all sitting around the table talking and discussing and thinking “

But why does all this show that FGCs can be seen as a protective mechanism? Often people tend to deny problems and deficits, because they are ashamed, especially when it comes to family issues. The world shows us through creating perfect role models in movies and advertisements what the perfect mother, the perfect family has to look like. Being overextended would be equalized with failure. Hardly anybody likes to admit that they simply cannot deal with family issues any longer nor do they like asking for help. Yet, if help is offered, most

people are happy to accept this, especially when the family itself is part of the process of finding solutions. FGCs encourage the involvement of all family members in this process.

In addition, FGCs not only make sense when there is already a child in danger already. When evaluating the data collected, it became apparent that the overall opinion of social workers and families involved is that FGCs can be applied to practically every case. This is an important finding, especially when it comes to the question which role FGCs play as Child Protection instruments. The caring for the well-being of the child starts long before family members suffer from excessive demand. Therefore, as a protective instrument, FGCs should be considered for every case Youth Welfare Offices get to know of.

Various interviews proved evidence of this finding, like the statement of one social worker interviewed:

„I2:also Sie als Sozialarbeiterin, wann würden's auf die Idee kommen, dass Sie einen FR anstreben. B: Also i hab ma danach dacht, auf jeden.“ (Soz_B: 00:17:00-1)

„I2: ...you, as a social worker, at which point would you consider the idea of holding a FGC? B: Well, after participating in this I thought this can be used at any point.“

The conclusion developed by analyzing the information available is that FGCs have a great potential as protective mechanisms, not only in relation to child protection, but also considering the enforcement of the CRC. Severe situations and possible episodes could be recognized and discussed with the family before the child is in danger. The protection rights of children, as stated through articles 4, 19 and 20 of the CRC are enforced through FGCs.

10.4 FGC as an informational tool

Information is one of the most important tools. This not only applies to day-to-day actions, but also or even more so to the professional life. Considering the well-being of children and the work with vulnerable families, the question as to how to break the vicious circle outlined below surfaces.

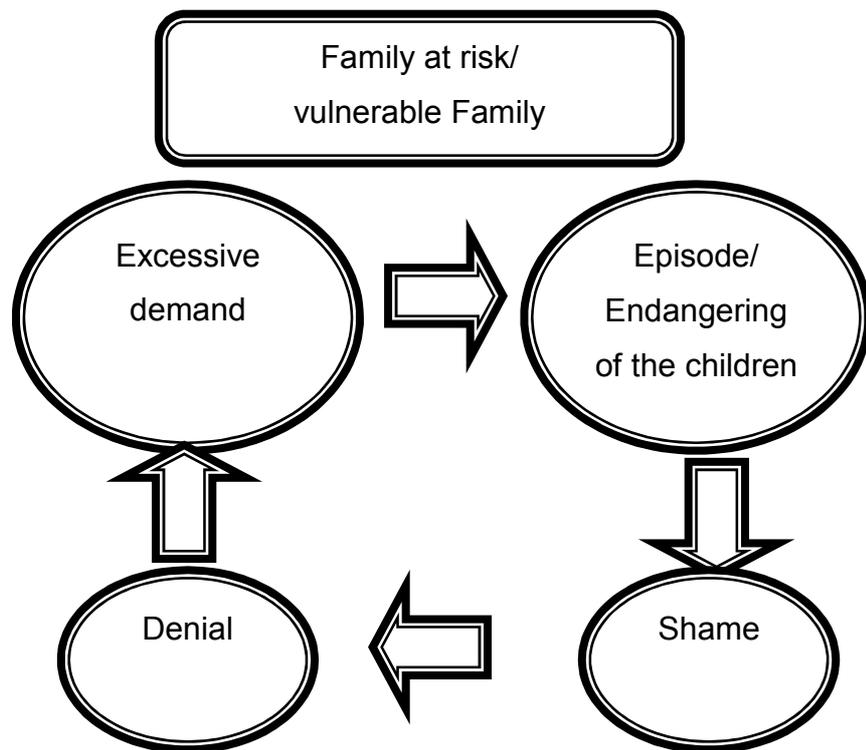


Fig. 6 Vicious circle of families at risk (compare to Marshall University 2012)

Families at risk / vulnerable families often find themselves in situations where they face excessive demands for different reasons. The feeling of being overextended increases until the pressure cannot be taken any more. This may result in a dangerous situation for children, a so-called episode. An episode can manifest itself through shouting, cussing, but also through severe psychological and physical abuse. Once the episode is over, the adult or the parents feel ashamed of their reaction. Sometimes they apologize to the children. After

some time they tend to act as if nothing has happened, until the vicious circle starts all over again.

The following hypothesis was created based on data collected: if family members had access to reliable information in regards to methods to assist them in stabilizing the situation, the vicious circle could be broken. Other family members and/or close friends can play an important role in this process. Often these know the resources and capabilities of individual family members better than an outsider. Together they can develop an “action plan” on how to prevent episodes and thereby reducing the danger to children by supporting the parents in various ways.

Through the analysis of the data the following hypothesis can be supported: FGCs can assume the role of informational tools. Families and close friends come together in a protective and supportive setting and provide their help to the family in need. Professionals like social workers can back up the suggestions by giving professional advice, for example educational support, financial aids and legal advice. In addition, the professionals involved get access to more information about the family, their network and their resources.

Various interviewees supported this hypothesis, like the social worker quoted below:

„...und man kriagt dann an viel besseren Einblick in die Familie, ja, also man kriegt mit wer is da nu dran, wer hat eigentlich no Kontakt zu de Kinder, was ma vorher eigentlich gar ned so weiß. Ja. Und wer will da no helfen, wer is da no bemüht, und und ja ma kriagt afoch mehr, mehr Gefühl a und an besseren Einblick in die Familiensituation.“ (Soz_B: 00:11:41-8)

“...you get a better insight into the family, you realize who is involved, who has contact with the children, therefore facts you have not been aware of previously. Yes, and also, who else wants to help, who aims to do something, and you get a better impression of, and insight into the whole family situation.”

10.5 Empowerment of Juveniles and Children

One of the main declarations of the CRC is the protection of the rights of the child in terms of participation, or in other words, of having an active voice. Often children are underestimated in the solution-finding processes and sometimes they are not even taken seriously. These findings were found when evaluating numerous interviews. In one of the dialogues the exact statement was as follows:

„I: ... die Wünsche von den Kindern wurden in dem Plan eigentlich... B: ...so gut es geht eingearbeitet, aber es wäre viel viel besser gegangen, vor allem a, wenn ma die Kinder für voll nehmen würde.“ (Fam03_Int05: 00:36:27-8)

„I: ...the children’s wishes were actually....B: ...included into the plan as much as possible, but it would have worked far better if one would have taken the children seriously.”

During the pilot, FGC has proven to be the first step for hearing the children’s voices. Although the interviewed person stated that further improvements in regards to taking children seriously could be made. Nevertheless, the holding of a FGC has proven to be effective.

When analyzing the evaluated data more thoroughly, the findings as to how capable children are of speaking for themselves became obvious. Even parents or close relatives were surprised at how children opened up when offered a chance:

„noch ana gewissen Zeit hot er (der Junge) si dann, hot er eigentlich selbst a wos gsogt, [...] do is er eigentlich a dabei gsessn und hot söba gsprochn und a söba wos dazu gsogt, des wos mi sehr verwundert hot, weil er des normal, eher eben net mocht...“ (Fam01_Int02: 00:03:33-1)

„after some time he (the boy), well he actually he said something himself, [...] he sat there spoke for himself, which surprised me, because he usually does not...“

Children not only have the right of participation and freedom to tell their family what's on their mind but they should be able to communicate their own opinion during the solution finding process. Again, the collected data material provides evidence that FGC is a good instrument to empower juveniles and children. Children themselves stated to the social worker that they are convinced that FGCs are a powerful and useful instrument.

One of the social workers interviewed repeated the opinion of one child involved in a FGC:

„Dein Mario hat gesagt, am liebsten täte er das allen sagen, weil das (FGC) so ein gutes, er hat nicht Instrument gesagt aber er hat gesagt, weil das so gut ist.“ (Soz_DE2: 00:16:31-1)

“Your Mario has said he would love to tell everybody because it (FGC) is such a great, he didn't say instrument, but he said, because it is so great.”

Also, there is no reason to fear that children get overextended during this process, as one of the interviewed social workers pointed out:

„I: Aber haben Sie den Eindruck gehabt, dass die Kinder ned überfordert waren oder oder sie waren angespannt aber... B: Angespant, aber dass sie überfordert waren, hab i ned den Eindruck gehabt, na.“ (Soz_A: 00:33:35-2)

“But did you have the impression, that the children had not been overextended or that they were stressed...B: Stressed, but overextended, no I don’t think so, no.”

The created thesis is that children are often excluded in decision making processes. Most of the time because they are underestimated by adults, in other words: adults have the fear of asking too much of the children. FGCs can help parents to overcome this fear, to empower their children and as a result to benefit from their children’s thoughts and suggestions. On top, this demonstrates again the importance of FGCs referring to it as a children’s rights enforcement. As stated in the CRC (2012) under Article 13: “The child shall have the right to freedom of expression; ...”.

To conclude, FGC has shown to be a powerful child protection instrument and enforcement of the CRC. In addition, children responded in very positive and dedicated ways, demonstrating just how capable they are of being involved in family decisions.

10.6 Prevention of violence

One of the most important things in relation to child protection is without question the prevention of violence. As discussed before, the vicious circle of violence can be difficult to break.

The term prevention can be used to describe various actions and interventions: ones that are actioned before any form of violence happened or actions completed by authorities (for example the Youth Welfare System) after violence has taken place. In the context of this paper the term “prevention” describes actions, interventions and solutions for families, which have had contact with the Youth Welfare Office. This does not necessarily imply that violence has occurred.

The data collected impressively shows the role FGCs can take as preventative instruments. They ensure the voices of children are heard, which has a priceless effect on the parents. Parents tend to have the impression that their children don't realize troubles or discussions. As a result children are excluded from "adult" discussions. It can be a wake-up call adults finally realize how much their children notice and understand. This conclusion is based on statements found in various interviews, like the one carried out with the coordinator:

„Der hat, beide hams Tränen in den Augen ghabt, beide Eltern, ja. Also, i find, wenn so was passiert, so ein Moment entsteht, des sind Momente, da denk i ma, des is Erfolg, ja.“ (Koo_Int03b: 00:44:13-8)

“They both had tears in their eyes, both parents, yes. Well, I think if something like that occurs, when such a moment happens, this is when I think that this was successful, yes.”

The realization of children noticing troubles and discussions is a main factor in terms of prevention of violence. Once those facts have been realized the awareness as to how to deal with the problems in the future rises and the willingness for working out a good and steady "action plan" becomes visible.

„Gewaltprävention war ebenso ein wichtiges Thema. Familien haben selbstständig Lösungen gefunden, wie sie die familiäre Atmosphäre gewaltfrei gestalten können. Zum Beispiel haben sie Vereinbarungen getroffen sich gegenseitig in drohenden grenzüberschreitenden Situationen zu begleiten.“ (Land_Dok01: 130)

“Prevention of violence was a very important topic as well. Families have found solutions independently as to how to develop a violence free family environment. They have, for example, made arrangements to help and support each other in case of episodes.”

The action plan developed can be seen as the main prevention factor. Through establishing a solution or “action plan” together with the family and close friends it becomes easier to deal with the deficits and the excessive demands. This existing network not only provides support and help where required (taking care of the children few days a week, helping with the household,...) it also has a controlling element. Upon completion of a FGC all people involved, including the immediate family, are aware of the problems and the situation. However, the “action plan” designed not only involves regulating supporting actions but should also provide a clause as to “what to do in an emergency”, as stated by one of the analyzed proceedings:

„Es werden zudem Notfallspläne entworfen. Hier sind folgende Fragen relevant: was ist, wenn der Jugendliche randaliert? Wen kann ich in diesem Fall kontaktieren?“ (Land_Dok01: 112).

“In addition, emergency-plans will be designed. The following questions are of importance: what happens if the juvenile rampages? Who can be contacted in that situation?”

Other preventive mechanisms can be implemented through discussing actions which have caused problems in the past, and working together on a new way for dealing with these problems in the future. Examples have been found in many interviews carried out, as well as proceedings, like the one stated below:

„Eine Fragestellung kann zum Beispiel lauten: wie kann die Kindesübergabe zwischen Vater und Mutter gewaltfrei gestaltet werden?“ (Land_Dok01: 110)

“One question could be: how can the children be passed between father and mother without violence?”

To conclude, the findings from the data have confirmed FGC as an instrument to prevent violence and therefore child protection instrument, as it establishes

an action plan agreed between all family members involved. The personal network of the family is activated and therefore can be used as a control of episodes. Furthermore, the role of a children's rights enforcement is evident through the fact that one of the objectives of the "action plan" can be the prevention of violence. The right of the child to live free without violence is stated in article 19 of the CRC.

10.7 FGC as an educational instrument and a tool for strengthening the self esteem

Dealing with straining situations and challenges is difficult. We learn how to deal with such situations over time and by making mistakes. Nevertheless, there is no perfect way to handle a challenge. What can be learned is how to handle challenges without resorting to violence. Families who are "clients" of the Youth Welfare System often show a dysfunctional way of dealing with their problems and daily challenges. Violent situations occur, and as stated in the previous section, FGCs can prevent such overextensions. However, FGCs offer more than just a preventative mechanism as they can be used as an educational instrument too.

During the FGC new approaches to solving a problem are discussed and later agreed on by establishing an "action plan". Different roles, responsibilities and supportive mechanisms are defined, often for all possible situations (for example, what happens with the 2 year old child if the mother has an appointment at the doctors? Who has the responsibility of taking care of the child in the meantime?). the development of these new approaches can be seen as educational instruments. By considering a familiar situation a different solution was found and in the end, the outcome shows enhancements.

Not only parents and adults benefit from the educational enhancement, but children too, as they realize that difficult situations can be solved without

violence. The parents could become a role model and parents who were involved in a FGC stated:

*„...in weiterer Folge aba dann versuch ich als gutes Vorbild zu fungieren.“
(Fam03_Int04. 00:14:09-9)*

“But subsequently I tried to be a good role model.”

*„Und I denk ma, wenn ma den Kindern do vorlebt des gut zu machen und sie dann auch mit ins Boot holt, ist es leichter, wenn sie dann dabei sind.“
(Fam03_Int05: 00:33:26-09)*

“And I think, if you exemplify a good thing to your children and involve them, it is easier, if they are part of it then.”

Finally, the empowerment of children that allows them to speak out in regards to their rights and needs has shown to have a positive effect on their self esteem. The analysis of the data supports this. Children appear to be happier after the FGC, they are more active and sometimes for the first time, realize their importance as a family member. This was found in various interviews, and has been stated impressively through the statement of one social worker, who described the experience as such:

„...für mich ist so die Idee und was mir so am Familienrat gut gefällt, und ich glaub auch das des eine Wirkung zeigt. In dem Moment wo sich viele zusammensetzen und Verantwortung für ein Kind übernehmen und der Bursch hat so ehrlich gesprochen, der wurde unterstützt, der hat jemanden an seiner Seite gehabt, dann greift etwas auf Zeit gesehen, ja also ned übermorgen aber auf Zeit gesehen hat das Kind die Idee, da gabs einen Rahmen, wo ich im Mittelpunkt stand und wo alle geschaut haben wie kann es für mich einen guten Platz geben.“ (Soz_DE1: 00:30:02-6)

“...to me that’s the idea and what I like so much about FGC, and I think that it has an impact. At the moment when a lot of people gather and take responsibility for a child and the boy, he has spoken so honestly, was supported, had somebody on his side, with time this will have an impact, well maybe not tomorrow or the day after but over time the child gets the idea, that well there was a setting at which he / she was the center and everybody tried to find a good place.”

Overall, FGCs play an important role as educational instruments, especially in terms of new methods for raising children, involvement of the children and the aim of the parents to be better role models. This has a lasting effect on the self esteem of the children involved, and sometimes will be celebrated, as the following example shows:

„Und dann hamma das Mädchen, wirklich in dieser Nachfolgekonferenz diese Erfolge, wirklich diesen Erfolg wirklich gefeiert. Also es war wirklich dann, des Mädls is, die is einfach schöner gwordn. Die hat sich körperlich verändert, die, die hat wirklich profitiert.“ (Koo_Int03b: 00:50:32-9)

“And then we celebrated, during the following conference, the success, really celebrated the success. Well, it was, the girl, she simply had become more beautiful. Her body had changed and she has benefited from this.”

Self esteem should not be underestimated. It is a powerful tool in young years but as well and more importantly as adults. The basis for it is set at early ages, when being a child. And if FGCs can help strengthening it, we should enforce it even more. Because:

“Appreciation and self-love are the most important tools that you could ever nurture. Appreciation of others, and the appreciation of yourself is the closest vibrational match to your Source Energy of anything that we've ever witnessed anywhere in the Universe.” (Abraham)

11 Conclusion

The Children's Rights movement has become one of the most important ones in terms of Human Rights since the beginning of the 20th century. The establishment of the Convention on the Rights of the Child is the most significant accomplishment within this development. Through the ratification of the CRC, Child Protection is put on the agenda of nearly every government in the world, amongst them Austria and Argentina. National and international governmental and non-governmental organizations, have become the major force behind the process of visualizing the Rights of the Child.

At legal terms, Austria enforces Child Protection through the Youth Welfare Offices and the Law on the Protection of the Youth, regulated by the federal states. During the last years the call for a change and improvement of this system has become louder. Social work, the main profession involved in child protection issues, promotes this change at the front line. New social work methods are discussed, amongst them the use of Family Group Conferences. The University of Applied Sciences St. Poelten together with the Youth Welfare Offices and the non-governmental organization "Rettet das Kind" carried out a pilot project in Lower Austria to assess the impact of Family Group Conferences (FGCs).

The evaluation of data gathered was based on the research question "which role FGCs play as Child Protection instruments and Children's Rights enforcement" showed interesting results. FGCs help visualizing different problems, deficits and solutions within families. Furthermore, FGCs are less costly compared to other child protection instruments. Fairly important is the FGC's role as a protective mechanism, an informational tool and prevention of violence. Especially in terms of violent families or families at risk FGCs have proven to have a positive effect on affected family members. Finally, it is important to take into account the empowerment of juveniles and strengthening

of their self esteem through FGC's, as well as the fact that these can be seen as educational instruments.

To summarize, this research into FGCs has provided evidence that these can have an empowering and therefore positive effect on the development of the dynamics families at risk have to face. It can be seen as a powerful child protection instrument, especially because the needs of the children are being visualized by involving them in the solution finding process. Through this empowerment of children it becomes apparent that FGCs can also be seen as Children's Rights enforcement, considering that the three main sections of the CRC are Prevention, Protection and Participation of Children.

In the future the aim is the wider implementation of FGCs within the Youth Welfare System of Austria. As the calls for change are getting louder, we still need to have patience, as history has shown us: Rome wasn't built in a day.

12 Bibliography

Alderson, Priscilla (2000): Young Children's Rights. Exploring Beliefs, Principles and Practice, London.

Beckett, Chris (2007): Child Protection. An Introduction, 2nd Edition, London.

Bell, Margret (2011): Promoting Children's Rights in Social Work and Social Care. London / Philadelphia.

Bickman, Leonard / Rog, Debra J. (1997): Handbook of Applied Social Research Methods.

Boogaart, H. Van den, et al. (Hrsg) (1996): Rechte von Kindern und Jugendlichen. Wege zu ihrer Verwirklichung, Beiträge zum Frankfurter Rechte-Kongress 1995, Münster.

Bruner, Claudia Franziska / Winklhofer, Ursula / Zinser, Claudia (1999): Partizipation-ein Kinderspiel. Beteiligungsmodelle in Kindertagesstätten, Schulen, Kommunen und Verbänden, Deutsches Jugendinstitut München.

Bundesministerium für Wirtschaft, Familie und Jugend BMWFJ (2012): Youth Welfare. <http://www.en.bmfj.gv.at/Family/YouthWelfare/Seiten/default.aspx>, am 30.03.2012.

Carle, Ursula / Kaiser, Astrid (1998): Rechte der Kinder. Hohengehren.

Children's Rights Portal (2012): Children's Rights History. Historical overview of the Children's Rights Evolution, <http://childrensrightsportal.org/childrens-rights-history/>, am 19.03.2012.

Children's Rights Portal (2012a): Realization of Children's Rights Index. <http://childrensrightsportal.org/rcri/>, am 20.03.2012.

Conolly, Marie / McKenzie, Margaret (1999): Effective Participatory Practice. Family Group Conferencing in Child Protection, 1st Edition, New York.

Deegener, Günther (2005): Kindesmissbrauch. Erkennen, helfen, vorbeugen, 3. Auflage, Weinheim.

Denov, Myriam et al. (2011): Children's Rights and International Development. Lessons and Challenges from the field, 1. Auflage, New York.

Dreikurs, Rudolf et al. (2003): Familienrat. Der Weg zu einem glücklichen Zusammenleben von Eltern und Kindern, 2. Auflage, Stuttgart.

Fegert, Jörg Michael (1993): Sexuell missbrauchte Kinder und das Recht. Ein Handbuch zu Fragen der kinder- und jugendpsychiatrischen und psychologischen Untersuchung und Begutachtung, Band 2, Köln.

Fegert, M. Jörg et al. (2010): Problematische Kinderschutzverläufe. Mediale Skandalisierung, fachliche Fehleranalyse und Strategien zur Verbesserung des Kinderschutzes, München.

Fellöcker, Kurt (2006): Computerunterstützte Analyse qualitativer Daten. In: Flaker, Vito / Schmid, Tom (Hrsg.): Von der Idee zur Forschungsarbeit. Forschen in Sozialarbeit und Sozialwissenschaft, Wien-Köln-Weimar, 396-412.

Ferenci, Beatrix (2012): Die Rechte von Kindern und Jugendlichen. Kinderrechtskonvention, 5. Auflage, 2012.

Guggenheim, Martin (2005): What's wrong with Children's Rights. Cambridge.

Hilbert, Christian et al. (2011): Familienrat in der Praxis. Ein Leitfaden, Berlin.

Holland, Sally / O'Neill, Sean (2006): 'We had to be There to Make Sure it was What We Wanted': Enabling children's participation in family decision-making through the family group conference. In: Childhood, Nr.1, 13. Jg., 91-111.

International Federation of Social Work (2002): Definition of Social Work. <http://ifsw.org/resources/definition-of-social-work/>, am 26.03.2012.

Index Mundi (2012): Country Statistics. <http://www.indexmundi.com/>, am 20.04.2012.

Jones, Phil et al. (2011): Children's Rights in Practice. London.

Kilkelly, Ursula (2011): Using the Convention on the Rights of the Child in Law and Policy. Two Ways to Improve Compliance, in: Invernizzi, Antonella /

Knapp, Gerhard et al. (2009): Kindheit, Gesellschaft und Soziale Arbeit. Lebenslagen und soziale Ungleichheit von Kindern in Österreich, Band 10, Wien.

Law Library of Congress (2012): Children's Rights: Argentina. <http://www.loc.gov/law/help/child-rights/argentina.php>, am 12.04.2012.

Liebel, Manfred (2007): Wozu Kinderrechte? Grundlagen und Perspektiven, 1. Auflage, München.

Longman Dictionary of Contemporary English (2005): 4th Edition, Harlow.

Lurie, Jim (2003): The Tension between Protection and Participation – General Theory and Consequences as Related to Rights of Children, Including Working Children, in: IUC Journal of Social Work. Theory/Practice, Nr. 7,

http://www.bemidjstate.edu/academics/publications/social_work_journal/issue07/articles/Tension.htm, am 12.02.2012.

MaxQda (2012): The Art of Text Analysis. What is MAQDA?, <http://www.maxqda.com/products/what-is-maxqda>, am 06.04.2012.

Merten, Roland et al. (2011): Kinderschutz in gemeinsamer Verantwortung von Jugendhilfe und Schule. 1. Auflage, Wiesbaden.

Misiones Desarrollo Social (2012): Plan Familias. http://www.desarrollosocial.misiones.gov.ar/index.php?option=com_content&task=category§ionid=9&id=41&Itemid=58, am 01.04.2012.

Moravek Michael (2002): Menschenrechte und Soziale Arbeit : ein Handbuch für Ausbildungsstätten der Sozialen Arbeit und für den Sozialarbeitsberuf / Vereinte Nationen - Zentrum für Menschenrechte, 5. Auflage, Weingarten.

Munro, Eileen (2011): Effective Child Protection. 2nd Edition, London.

Neumayer, Eric (2007): Qualified ratification. Explaining reservations to international human rights treaties. In: The Journal of Legal Studies, Nr.2, 36. Jg., 397-429.

Reichert, Elisabeth (2003): Social Work and Human Rights. A Foundation for Policy and Practice, New York.

Save the Children (2007): Resource Center on Child Protection and Children's Rights Governance. Definition of Child Protection, <http://resourcecentre.savethechildren.se/>, am 23.03.2012.

Sax, Helmut (2011): Kinderrechte in die Verfassung? Leider nur halbherzig und mutlos..., Ludwig Boltzmann Institut für Menschenrechte,

<http://bim.lbg.ac.at/de/aktuelles/kinderrechte-verfassung-leider-nur-halbherzig-mutlos>, am 26.03.2012.

Strauss, Anselm L. / Corbin, Juliet M. (1998): Basics of Qualitative Research. Techniques and Procedures for Developing Grounded Theory, 2nd Edition.

Turnell, Andrew / Edwards, Steve (1999): Signs of Safety. A Solution and Safety Oriented Approach to Child Protection Casework, 1. Auflage, New York.

UNICEF Argentina (2012): Protección de Niños, Niñas y Adolescentes. <http://www.unicef.org/argentina/spanish/protection.html>, am 01.04.2012.

UNICEF (2011): Convention on the Rights of the Child. <http://www.unicef.org/crc/>, am 13.03.2012.

UNICEF (2012): Introduction to the Convention on the Rights of the Child. Definition of key terms, <http://www.unicef.org/crc/files/Definitions.pdf>, am 19.02.2012.

UNICEF (2012a): Fact Sheet. The Committee on the Rights of the Child, http://www.unicef.org/crc/files/Committee_fact_sheet.pdf, am 19.03.2012.

United Nations Treaty Collection (2012): Status of Ratification. Convention on the Rights of the Child, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en, am 12.04.2012.

Van Bueren, Geraldine (1998): The International Law on the Rights of the Child, The Hague.

Wijnen-Lunenburg, Patty et al. (2008): It's the Family's Move. The Effects of Eigen Kracht Conferences within the context of Youth Protection and with respect to Safety, Social Cohesion and Control, Amsterdam.

Williams, Jane (Hrsg): The Human Rights of Children. From Visions to Implementation, Wales, 179-195.

World Health Organization (2002): The World Report on Violence and Health, http://www.who.int/violence_injury_prevention/violence/world_report/en/full_en.pdf, am 25.03.2012.

12.1 Grey Literature

Interviews, carried out with Family members, Social Workers and the Coordinator. All had been part of FGCs through the Pilot Project of the Youth Welfare Services Lower Austria / Rettet das Kind / University of Applied Sciences St. Poelten. The Interviews had been conducted through students of the University of Applied Sciences involved in the Pilot Project.

In addition, protocols and proceedings of meetings with responsible persons involved at the government of Lower Austria and the Youth Welfare Services had been taken into account.

13 Abbreviations

BMWFJ	Federal Ministry of Economy, Family and Youth
Cit. in	cited in
CRC	Children's Rights Convention
FGC	Family Group Conference
NGO	Non Governmental Organization
OPAC	Optional Protocol on the Involvement of Children in Armed Conflicts
OPSC	Optional Protocol on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography
RCRI	Realization of the Children's Rights Index
UNICEF	United Children's Fund

14 Table of figures

Fig. 1: The Children's Rights Portal (2012): Map on the Respect of Children's Rights Worldwide, <http://childrensrightsportal.org/map-respect-children-rights-worldwide/>, am 15.03.2012.

Fig. 2: The Children's Rights Portal (2012): Geneva Declaration of the Rights of the Child 1924, <http://childrensrightsportal.org/references-on-child-rights/geneva-declaration/>, am 15.03.2012.

Fig. 3: Bundesministerium für Wirtschaft, Familie und Jugend (2012): Statistik, <http://www.bmwfj.gv.at/Familie/Jugendwohlfahrt/Documents/AA%20-%20Statistik%202010.pdf>, am 30.03.2012.

Fig. 4: Process of Thematic Coding

Fig. 5: Visualization of the research question "Which role do FGCs play as Child Protection Instruments and Children's Rights Enforcement?"

Fig. 6: Marshall University (2012): Women's Center. Cycle of Violence, <http://www.marshall.edu/wpmu/wcenter/domestic-violence/cycle-of-violence/>, am 12.04.2012.

15 Appendix

15.1 The UN Convention on the Rights of the Child

Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 entry into force 2 September 1990, in accordance with article 49

Preamble

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

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

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) ; and the Declaration on the Protection of

Women and Children in Emergency and Armed Conflict, Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child, Recognizing the importance of international cooperation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

PART I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. 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.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life. 2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.
2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. 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.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; or (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

To this end, States Parties shall: (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29; (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources; (c)

Encourage the production and dissemination of children's books; (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous; (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall: (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary; (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin; (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption; (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it; (e) Promote, where appropriate, the objectives

of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or nongovernmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: (a) To diminish infant and child mortality; (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care; (c) To combat disease and malnutrition, including within the framework

of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution; (d) To ensure appropriate pre-natal and post-natal health care for mothers; (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents; (f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate

measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all; (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need; (c) Make higher education

accessible to all on the basis of capacity by every appropriate means; (d) Make educational and vocational information and guidance available and accessible to all children; (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to: (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential; (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations; (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own; (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin; (e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular: (a) Provide for a minimum age or minimum ages for admission to employment; (b) Provide for appropriate regulation of the hours and conditions of employment; (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent: (a) The inducement or coercion of a child to engage in any unlawful sexual activity; (b) The exploitative use of children in prostitution or other unlawful sexual practices; (c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that: (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age; (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time; (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances; (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.
4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed

conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that: (a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed; (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees: (i) To be presumed innocent until proven guilty according to law; (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence; (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians; (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality; (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law; (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used; (vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular: (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law; (b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in: (a) The law of a State party; or (b) International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.
2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.
3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.
5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.
7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.
8. The Committee shall establish its own rules of procedure.
9. The Committee shall elect its officers for a period of two years.
10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.
11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.
12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights (a) Within two years of the entry into force of the Convention for the State Party concerned; (b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.
3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.
4. The Committee may request from States Parties further information relevant to the implementation of the Convention.
5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.
6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international cooperation in the field covered by the Convention: (a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities; (b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications; (c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child; (d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations. IN WITNESS THEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed the present Convention.

16 Eidesstattliche Erklärung

Ich, Nina Hagenauer, geboren am 16.06.1980 in St. Pölten, erkläre,

1. dass ich die in dieser Masterthesis mit meinem Namen gekennzeichneten Teile selbstständig verfasst, keine anderen als die angegebenen Quellen und Hilfsmittel benutzt und mich auch sonst keiner unerlaubten Hilfen bedient habe,
2. dass ich diesen Text bisher weder im In- noch im Ausland in irgendeiner Form als Prüfungsarbeit vorgelegt habe,

St. Pölten, am 30.04.2012



Unterschrift