

A young child with dark skin and hair, wearing a white shirt with thin vertical stripes, is leaning on a white metal railing. The child is looking directly at the camera with a neutral expression. The background shows a nursery or hospital ward with several other similar white metal cribs, some containing blue bedding. The lighting is bright and even.

Early Childhood Matters

DECEMBER 2005 • NUMBER 105

Children without parental care:
Qualitative alternatives

Bernard van Leer



Foundation

Early Childhood Matters is a journal about early childhood. It looks at specific issues regarding the development of young children, in particular from a psychosocial perspective. It is published twice per year by the Bernard van Leer Foundation.

The views expressed on *Early Childhood Matters* are those of the authors and do not necessarily reflect those of the Bernard van Leer Foundation.

Work featured in *Early Childhood Matters* is not necessarily funded by the Bernard van Leer Foundation.

© Bernard van Leer Foundation, 2005
Reproduction of articles from *Early Childhood Matters* by photocopying or electronic means for non-commercial purposes is permitted. However, it is requested that the author, *Early Childhood Matters* and Bernard van Leer Foundation are cited as the source of the information. Permission must be obtained to use photos.

ISSN 1387-9553

Cover: Hospital ward for orphans in Port-au-Prince, Haiti.
Photo: Pascale Simard/Lineair

Early Childhood Matters is also published in Spanish: *Espacio para la Infancia* (ISSN 1566-6476). Both publications are available from our website, where articles can be downloaded, and hard single copies can be requested free of charge.

Bernard van Leer Foundation
PO Box 82334
2508 EH The Hague
The Netherlands
Tel: +31 (0)70 331 2200
Fax: +31 (0)70 350 2373
email: registry@bvleerf.nl
<www.bernardvanleer.org>

Series Editors: Teresa Moreno, Jan van Dongen
Design & Production: Homemade Cookies
Graphic Design bv

Contents

Foreword	3
The challenges of out-of-home care <i>Nigel Cantwell</i>	4
Young children in institutional care in Europe <i>Kevin Browne, Catherine Hamilton-Giachritsis, Rebecca Johnson, Shihning Chou</i>	15
The State and Aboriginal children in the child welfare system in Canada <i>Cindy Blackstock, Jordan Ann Alderman</i>	19
A challenge to family continuity and human rights <i>Jean Marie Anglade</i>	23
Children in prison with their mothers <i>Rachel Brett, Megan Bastick</i>	27
An interview with Emmanuel Sherwin	32
Promoting foster care: A Cambodian experience <i>Laurence Gray</i>	37
Guatemala: Fostering children prior to adoption <i>Kelley McCreery Bunkers</i>	42
South Africa: The case for child-headed households <i>Carol Bower</i>	45
Thailand: Taking children's views into account	50
Children born out of wedlock in Tunisia <i>Maria Luisa Fornara, Hela Skhiri</i>	52
Further reading	55
News from the Foundation	59

Foreword

This issue of *Early Childhood Matters* can be seen as a logical sequence to our previous issue, on responses to young children in post-emergency situations. As explained in that issue, emergencies such as natural and man-made disasters often put children at an increased risk of becoming temporarily or permanently separated from their families and caregivers. Violence, the HIV/AIDS pandemic as well as poverty are other reasons why children can find themselves deprived of parental care.

A growing number of children around the world are currently orphaned or otherwise growing up without parents. These children need care and protection, but social policy, influenced by culture, history, politics and many other factors, heavily determine the type of support a child receives.

One of the three new programme priorities of the Bernard van Leer Foundation is to help strengthen the care environment of the child. It does this through a stronger focus of its grantmaking on work that (1) supports parents and caregivers who are raising children in environments of stress, (2) helps parents and caregivers in their role of assuring children's rights and development and (3) addresses the needs of children without parental care.

The importance of the family in a child's life cannot be overstated as the article on "How poverty separates children and parents" (page 23) indicates. More fundamentally, the Convention on the Rights of the Child emphasises the importance of the family in children's lives. Its preamble notes that "the family, as the fundamental group of society and the natural environment for the growth and wellbeing of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities" and "the child, for the full and harmonious development of his or her personality, should grow up in a family environment, and atmosphere of happiness, love and understanding."

But how can the most appropriate use of alternative care be ensured? The Convention of the Rights of the Child (art. 3) says that, in principle, responses should always take into account the best interest of the child. Reality, though, shows that this does not always happen – the frequency with which serious problems are reported regarding care for children in informal or formal fostering (such as kinship care, adoption and residential facilities) suggests that alternative care measures should be better monitored.

In the articles of this issue of *Early Childhood Matters* we point to the lack of clear guidelines for providing adequate care, and we give suggestions on how to improve existing mechanisms. The requirement for international standards is one of the many issues brought up at the "Discussion Day on Children without Parental Care", organised by the UN Committee on the Rights of the Child in Geneva, Switzerland, in September 2005. There is a need for international guidelines that guarantee the appropriateness of the environment in which children grow up. Recommendations arising from that meeting are scheduled for publication in early 2006.

In the following pages, guest editor Nigel Cantwell takes a look at the current state of international thinking on the issue of children without parental care. We are much indebted to him for bringing together a broad range of views from a number of specialists in this area and for his own thought-provoking article. We welcome the views of readers.

Teresa Moreno
Jan van Dongen
Editors

The challenges of out-of-home care

Nigel Cantwell*

There is no longer any debate, one might think, over the most critical issues that have surrounded the provision of alternative care for young children who, for whatever reason, do not or cannot live with their parents.

It is widely agreed that three principles should guide decisions regarding long-term substitute care for children, once the need for such care has been demonstrated:

- family-based solutions are generally preferable to institutional placements;
- national (domestic) solutions are generally preferable to those involving another country;
- permanent solutions are generally preferable to inherently temporary ones.

Research is virtually unanimous in pointing out the high risk of institutional placements causing serious long-term damage to children under 3 or even under 5 years of age. In the face of the evidence, few would now disagree that institutional settings (in contrast to certain other kinds of ‘residential care’) cannot give young children the kind of environment they need to develop fully and harmoniously, regardless of the overall quality of care provided. Over the past thirty or so years, ‘de-institutionalisation’ has therefore gradually become the watchword in an increasing number of countries, with concomitant efforts to promote ‘family-based’ care or ‘family-type’ residential units.

Similarly, the aim must surely now be to avoid as far as possible uprooting children from their communities and cultures when an alternative care solution has to be envisaged, whether temporarily or permanently.

In addition, the need to foresee how return to the family or, if necessary, identifying another suitable and stable family-based solution (often adoption) can be ensured as soon as a child comes into care – ‘permanency planning’ or developing an ‘alternative permanent life project’ on the basis of a full assessment – is increasingly recognised as one of the main pillars of good practice.

The ‘emergency test’

A good litmus test for measuring how accepted these principles have become is to look at reactions to child victims of large-scale disasters, both natural and man-made. Emergency situations invariably constitute concentrated microcosms of problems to be resolved in meeting the needs, safeguarding the best interests, and protecting the rights of children without parental care. In particular, they give rise to an array of proposed responses from a range of sources that reflect the real state of contemporary policy and practice, and that therefore underscore overall attitudes towards, and efforts on behalf of, such children.

Indeed, from the Vietnam “Operation Baby-lift” of the mid-1970s to the Rwandan genocide and the

conflict in ex-Yugoslavia, from Hurricane Mitch to the Gujarat and Bam earthquakes, responses have betrayed persistent and serious misunderstanding of, or disregard for, children’s rights and needs. They included the widespread establishment of ‘orphanages’ and, often, the mass displacement of children to another country for temporary or permanent care.

Not unexpectedly, several similar initiatives were mooted in the wake of the tsunami disaster – by officials and private bodies alike. Thus, for example:

- a us evangelical organisation publicised plans to airlift 300 ‘orphans’ from Banda Aceh to Jakarta with a view to placing them in “a Christian orphanage”;
- the Indonesian authorities themselves reportedly announced the construction of a “large orphan house” in Banda Aceh and another in Medan if necessary;
- a European Commissioner suggested that families in EU countries would be ready to offer temporary refuge to thousands of children from the affected region.

The big difference this time was that they did not happen:

- the Indonesian Government refused permission for the airlift;
- the Authorities also let it be understood in the end that there would be no new ‘orphan house’ and that priority would be given to supporting families that had taken in children, making institutional care a last resort (however, direct State provision of residential facilities is very much the exception in Indonesia, and reportedly several private orphanages have been set up post-tsunami, with hundreds of children affected by the disaster being accommodated in those and previously existing institutions);
- the EU proposal was almost immediately withdrawn in the face of strong criticism from organisations such as UNICEF and Save the Children.

Furthermore, within days of the tsunami disaster – just three in the case of the us – governments of many industrialised countries made official announcements barring their citizens from adopting children from the affected countries, Sri Lanka itself froze intercountry adoptions from the affected

region, and the Indonesian Authorities banned children under 16 from leaving the country unless accompanied by a parent.¹

The homogeneity and rapidity of these reactions were probably unprecedented. Ostensibly they sufficed to prevent cross-border evacuations. But, in the relative confusion exacerbated by the arrival of scores of private ‘agencies’ with their own agendas and own funding, they failed to stop one-off, uncoordinated initiatives to establish the now almost inevitable ‘orphanages’... In the last resort, then, the ‘de-institutionalisation’ approach clearly still has a long way to go in practice.

Behind child protection

A partial explanation of why this is so undoubtedly lies in two components of the context in which ‘child protection’ is carried out.

The first is the on-going legacy of the charity approach to child protection, based on the recognised emotional appeal that children have. Possibly no other human group – with, let us remember, human rights – is still so affected by charity-based responses to its problems. This can have grave ramifications for work to promote and protect children’s rights. But by no means all children ‘appeal’ in this way: 2-year-old ‘orphans’ generally do, but what about violent gangs of former child soldiers? Indeed, the less child-oriented programmes are based on a rights approach, the more they are likely to focus on the youngest children and babies, who are seen and portrayed as the most defenceless and vulnerable, so ‘emotional appeal’ dictates that they be the ones targeted. Yet the local community itself is far more likely to give priority to caring for its youngest members: in emergency situations, spontaneous informal fostering is common in regard to young children, for example, but even those above the age of 7 will often begin to find it harder to benefit from such arrangements.

But to maintain on-going public support, the type and content of programmes has to appeal to emotions: direct and immediate material aid does – hence, *inter alia*, the ‘orphanages’ for young children – whereas the costs involved in designing a family-support system or reviewing legislative texts with

* Nigel Cantwell is a child protection consultant based in Geneva. He began working on international children’s rights issues in the early 1970s with the International Union for Child Welfare. In 1979, he founded Defence for Children International, and throughout the 1980s he coordinated international NGO input into the drafting of the Convention on the Rights of the Child. He was also active in the development of the 1990 UN Rules for the Protection of Juveniles Deprived of the Liberty and, subsequently, the 1993 Hague Convention on Intercountry Adoption. He joined UNICEF as a consultant in 1994, and then as Senior Project Officer at UNICEF’s Innocenti Research Centre in Florence until 2003, heading the unit on implementation of international standards. His main fields of specialisation are juvenile justice, alternative care, and rights and protection issues arising from intercountry adoption and other forms of cross-border movement of children.

government counterparts generally do not. Thus, with public donations, agencies continue to ‘export’ or finance institutional responses even though, in their base country, such solutions have long been discredited and are no longer used. As a result, we face situations world-wide that are exemplified by concerns expressed in countries such as India and Namibia, where no one knows how many children are in residential facilities because large numbers of institutions are not even registered, let alone monitored and supervised.

The countries of Central and Eastern Europe and Central Asia provide a special scenario. Here the legacy is not charity but an institution-based ‘tradition’ that will inevitably take many years to erode. Efforts are under way in many, but so far with little real impact in most cases – so little that in Ukraine, for example, less than 200 foster parents have so far been recruited throughout the country whereas new ‘baby homes’ for the 0-3 age group, each accommodating about 100 children, have continued to be built in recent years. And in other countries, the process has yet to begin...

Why children are in care

Responding to the situation of young children without parental care is as complex as the reasons for their situation are varied, and their needs and wishes are diverse.

The circumstances in which young children may need, or find themselves in, an alternative care situation, include:

- the death of one or both parents;
- abandonment (usually at, or shortly following, birth);
- relinquishment to an agency or institution;
- unintentional separation from parents who cannot be immediately traced, usually in the wake of an armed conflict or natural disaster;
- temporary or permanent incapacity of the parents (e.g., due to imprisonment or illness);
- voluntary placement by parents (including respite care);
- medical treatment and other specialised care (e.g., disability, recovery);
- removal to a place of safety;
- placement pursuant to a status offence (e.g., vagrancy);

- illegal entry into another country, whether accompanied or not;
- the child’s own initiative to leave home.

The range of scenarios that need to be confronted is therefore vast. In the most obvious of these, the child quite simply no longer has, or has knowledge of, parents. In many instances, children and parents have lost contact and may be looking for each other. In some cases, the parents decide more or less of their own free will to place the child outside their home temporarily, in response to a variety of circumstances, while in others they fiercely resist moves to separate their children from them. According to the situation, it may or may not be possible to foresee the child’s return to parental care if appropriate support is given. And certainly in many cases it would have been possible to prevent family breakdown.

Identifying the ‘right’ solution – and then providing or supporting it – for each child is consequently a major challenge.

Kinship care: lost without it

Too often, provision of substitute care is viewed essentially as a choice between foster care and that all-encompassing term ‘residential placement’, and as catering to children who are orphaned, abandoned or removed from the parental home on the grounds of maltreatment. The reality is somewhat different.

Temporary or long-term care provided by a family member or close family friend (including *kafala*) – particularly informal in nature but, in many countries, increasingly also in the context of formal proceedings – is by far the most prevalent type of alternative care. This holds true as much for children affected by HIV/AIDS in Africa, Asia and Latin America (at least 90% of whom are taken in informally by their kin or community) as for children from families in difficulty in the USA (there are about 600,000 in the foster-care system nationwide², whereas 2.1 million children are being raised solely by grandparents, over 90% of them on an informal basis³).

In many industrialised countries, such as Australia and the UK, the authorities are making greater use of placements in kinship care, which is seen as far

less disruptive for the child but also responds to the difficulty of recruiting foster parents. While the potential advantages of kinship care are clear – known caretakers, usually living near to the family home, for example – it has been pointed out that little research has been undertaken to determine the ‘success rates’ of this solution as opposed to non-family foster-care. Indeed, a number of risks specifically associated with kinship care have been documented, depending on the circumstances in which the placement is effected, including:

- intra-familial friction because relatives insist on caring for the child, or because division of responsibilities and decision-making powers between relatives and parents are unclear or contested;
- unauthorised contact being allowed between the child and the parents or, conversely, authorised contact being refused;
- abusive or neglectful behaviour because the carers come from the same ‘troubled’ family;
- financial disincentives to return the child to the parents: relatives may receive higher allowances than those available to parents;
- negative portrayal by relatives, or the child’s own negative perception, of birth parents, which may reduce the likelihood of the child’s reintegration with the latter;
- in developmental terms, the risk that children may have difficulty in situating themselves on a generational or genealogical level when, for example, they are brought up by grandparents almost like the brother or sister of one of their parents.

These are clearly risks that need to be recognised, assessed and, if present, confronted: they are in no way reasons for questioning the overall role that kinship care can play when parents are unable to look after their children for a greater or lesser period of time. But in the same way as ‘intra-familial adoptions’ (adoption by an aunt, grandparents, a stepparent) are generally to be favoured over adoptions by strangers, there may be no less need in such cases to vet the potential carers and to examine the overall circumstances and likely consequences of such a move.

This poses problems, especially when kinship care is requested (by the birth parents) and provided (by

relatives) in good part to avoid outside ‘interference’. Should some kind of assessment by the statutory services take place in each case, or not at all, or only if, for example, the placement is to last more than three or six months? If there is minimal or no contact with the social services, how can kinship carers access the support – financial, counselling – that can be vital to the success of the placement?

In most developing countries, kinship care is less an option, more a norm. Alternatives other than institutions are rare, moreover, and extended families and their communities are now stretched to their limits with the need to take responsibility for children affected by the HIV/AIDS pandemic.

Clearly, the provision of financial and material support for relatives caring informally for children is the priority if this system is to stand any chance of continuing to carry out its vital role. But as is the case in industrialised countries, kinship care elsewhere can also bring with it a number of risks for child protection that need to be recognised and addressed. Among those that have been documented in certain African countries, for example, are:

- relatives fighting amongst themselves for the care of orphans, in some cases separating siblings in order to benefit from the social welfare intended for the children;
- looked-after children receiving food and resources only after the needs of the host family’s children have been satisfied;
- looked-after children serving as the host family’s unpaid domestic worker.

These are not easy issues to broach in a context where relatives are invariably making extraordinary efforts to cope, and where human and other resources in the social services are scarce. The need, from children’s rights standpoint, to find ways of tackling them without undermining the very positive aspects of informal kinship care – more by way of support, perhaps, than through surveillance – should nonetheless be recognised, however much it poses a real challenge under current circumstances.

Child-headed households

In Africa at least, kinship care for children, sometimes as young as 3 years, increasingly takes the form of a ‘child-headed household’ under the



Children cleaning windscreens on Avenida Paseo de la Reforma, Mexico City. Maltreatment and material poverty are two of the most common reasons why children grow up without parental care.

This approach is still considered controversial in some quarters, and certainly it is not without its dangers. Realism may dictate, however, that the alternatives to taking up the challenge in this way quite simply do not exist.

Foster care in the context of de-institutionalisation

It is interesting that, at the very moment that the “natural” limits of foster parent recruitment seem to be reached in many industrialised countries, efforts are under way elsewhere – including in many countries of Central and Eastern Europe – to develop what in many instances is the previously unknown practice of formal foster care.

Foster care can and does play many roles, including: emergency care for abandoned babies; short-term care for children who, very temporarily, cannot be looked after by their parents; medium-term care for those whose family situations are more difficult to resolve; and, more exceptionally, long-term care for children who cannot return home but are unlikely to be adopted.

The current trend towards increased reliance on foster care has been spurred, of course, by initiatives to move the de-institutionalisation process forward. In the industrialised countries, however, ‘reliance’ has often become ‘over-reliance’. Societal realities there underwent profound changes in the second half of the 20th century, with a growing number of households where both partners need to be in paid employment and the development of the ‘consumer society’ with emphasis on monetary reward. The ceiling on the number of potential foster carers – in the traditional sense of those willing and able to play this role for little more reward than an allowance designed to cover extra costs – has not been raised in anything like the proportions that would correspond to demand, with recruiting campaigns in the UK and USA often having failed miserably.

It was during this same period that the existence of what was initially termed the “battered baby

syndrome” (a term coined by Prof. C. Henry Kempe in 1962) began to be increasingly recognised. The realisation of the real incidence of child abuse and neglect in the 1960s and 1970s led to child protection services placing major emphasis on responding to the phenomenon. As a result, removal of children from parental homes to ‘places of safety’ because of actual or potential maltreatment has created unparalleled pressure on alternative care solutions. This is exacerbated by social workers’ fears of condemnation if their decision to maintain a child in the family home proves to have harmful, or even fatal, consequences. Nonetheless, such is the ‘foster-care crisis’ in countries such as the UK that social workers there have complained of having to leave children in ‘at risk’ situations because no alternative exists.

Unfortunately, government preferences for foster care are generated not only on child-friendly policy grounds – because of its family-based nature – but also because it is invariably viewed as a conveniently cheap childcare option. This argument may be losing its weight, however. In practice, ‘cheap’ has frequently translated into the sanctioned or de facto relaxation of standards for recruitment, derisory remuneration, inadequate provision for support and supervision once recruitment has taken place and/or over-burdening individual carers.

Fostering is a highly skilled service: many children in foster care will have suffered traumatic experiences, for example, and foster parents may have to take on the delicate operation of maintaining relations with the biological parents. Simply to enable, let alone motivate, foster carers to devote themselves to these specialised tasks under present-day conditions has meant substantially improving their financial conditions. The importance of appropriate training and effective support services has had to be recognised. And we are coming to terms with the fact that the cost of quality foster care provision, at least for children with the most demanding backgrounds, may in fact need to be equivalent to that of a typical institutional placement.

Launching the idea of foster care from scratch, in the many communities and societies who have organised alternative care for their children

without resorting to such formalised solutions, therefore means more than securing acceptance of the practice and persuading potentially interested families to apply. It also implies a fully fledged selection and training programme, a placement system and a support service. Worryingly, not all efforts in this sphere are taking these requirements into account.

Above all, foster care must not be viewed as a panacea. First, while it seems to work well for most children, it cannot work for all. Second, it rarely provides the guarantee of stability that ‘permanency planning’ requires. Third, even if it could be developed sufficiently to replace ‘institutions’ entirely as a care setting – a perspective well beyond the realms of reality in almost all countries – it would only be responding to the fact that too many children are unnecessarily deprived of the care of their parents.

The CRC approach

How does the Convention on the Rights of the Child (CRC) approach the issue of out-of-home care, and thus help in policy definition? To some extent, many would complain, it does so in a confusingly inconclusive manner, and on the face of it they might seem justified. But, as noted above, this is a highly complex issue, and one of the factors making it so is the requirement that responses be tailored to the needs and characteristics of each individual child. Examining the contribution of the CRC, then, means not only looking at how it broaches the provision of ‘quality care’ but also, at least as importantly, how it might ensure that the right decisions are made for each child in relation to his or her specific situation. It is worth reviewing some of the main issues involved here.

Too many children are unnecessarily deprived of parental care, whether actively and deliberately or because the parent(s) are in a social and/or financial situation where they feel they have no choice but to surrender their child. The first fundamental question to be posed, therefore, concerns the importance given in the CRC to the prevention of family breakdown and break-up. Undeniably, there is a massive and coherent thrust throughout the treaty in favour of family preservation. The Preamble sets the scene, with its reference to the family as

“the natural environment for the growth and well-being of all its members and particularly children” which therefore “should be afforded the necessary protection and assistance so that it can fully assume its responsibilities...”. In its operative part, the CRC builds on this stand in a variety of ways, through provisions such as:

- the right, as far as possible, to know and be cared for by his or her parents (art 7);
- the prohibition of a child’s separation from his or her parents against their will, save where this is determined – subject to judicial review – to be in the child’s best interests (art 9);
- the obligation of the State to render “appropriate assistance to parents [...] in the performance of their child-rearing responsibilities” (art 18);
- in relation to child abuse and neglect, explicit mention of preventive efforts and protective programmes “to provide necessary support for the child and for those who have the care of the child” (art 19);
- the State obligation to assist parents to provide the child an adequate standard of living and, in case of need, to provide “material assistance and support programmes, particularly with regard to nutrition, clothing and housing” (art 27).

From the standpoint of international law, consequently, major emphasis is to be placed on preventing two of the most common reasons, in ‘normal’ circumstances at least, why children find themselves in out-of-home care: maltreatment and material poverty.

Against that background, consideration of the kind of alternative care to be provided brings to light some interesting features that do not always correspond to what has now become ‘conventional wisdom’ in many circles, sometimes on the basis of more or less deliberate misinterpretation or oft-repeated simplistic dogma.

Again, the Preamble – in keeping with its main role – sets out the overall approach: “the child, for the full and harmonious development of his or her personality, should grow up in a family environment”. At this point, it is vital for our review to point out that this statement is not equivalent to, as is so often loudly and misleadingly proclaimed, “the child’s right to a family”. First, it is in the

declaratory, not the operative, part of the CRC. Consequently, in itself it creates no obligations on the part of States Parties – a necessary characteristic of a ‘right’. It can certainly be considered to set an overall and ostensibly very desirable objective, as part of the interpretative basis for implementing the CRC’s operative provisions. But it does not mean that there is automatic violation of a child’s rights if he or she is not in the care of a family. Indeed, no State, however materially or otherwise well-endowed, could commit itself to guaranteeing that every child in its jurisdiction is placed with a family, and this is the main reason that no “right to a family” figures in the operative text. It would, furthermore, be in clear contradiction to the fact that non-family-based care options are also to be provided.

That said, it is clear from the text – and logically – that alternative solutions based on a family- or family-type environment are in principle to be preferred.

In addition, the CRC comes down firmly in favour of providing alternative care without removing the child from the environment with which he or she is familiar: solutions proposed must take account of “the desirability of continuity in a child’s upbringing” and “the child’s ethnic, religious, cultural and linguistic background” (art 20.3).

The CRC and “the last resort”

There has been much discussion – not to say acrimonious disagreement – in child welfare circles over the position of lengthy institutional placements and intercountry adoption in the ‘hierarchy’ of care options: in other words, which one should be considered “the last resort”. It is worth looking closer at what we can glean from the CRC in this respect, not only to clarify this particular discussion but also because it can help to put in perspective some wider childcare questions dealt with in the treaty.

For young children, this issue is seen to be of special significance in that the vast majority of children adopted abroad are under the age of 8 at the time of their placement, and most are aged 5 years or less, precisely the age-range for whom institutional placement is considered the most detrimental. But perhaps the arguments put forward, on each side, are often trying to respond to the wrong question.

The message that comes through from the CRC is two-fold:

- States should ensure that children deprived of their family environment are cared for in a substitute family setting (it explicitly gives the examples of foster care, *kafala*, adoption) or, “if necessary” in “suitable institutions” (art 20.3).
- Intercountry adoption may be considered if the child cannot be cared for “in any suitable manner” in the child’s country of origin (art 21.b).

Logically, therefore, a so-called ‘suitable institution’ constitutes one ‘suitable manner’ of caring for the child in his or her own country – and consequently an ‘unsuitable’ facility would not.

The 1993 Hague Convention on Intercountry Adoption is often cited to throw the application of this logic into disarray, however. The ‘subsidiarity rule’ that it establishes, it is argued, applies only the preference to be given to domestic adoption over adoption abroad.

The Preamble of this treaty indeed notes that “intercountry adoption may offer the advantage of a permanent family to a child for whom a *suitable family* [our emphasis] cannot be found in his or her State of origin” and, consequently, appears to eliminate non-family-based options as valid alternatives to adoption abroad. Looked at more carefully, this is not quite the case.

First of all, the Hague Convention is a private law treaty – and an extremely valuable one, at that – and not a standard-setting human rights instrument. It sets out to build on, and not to trump, the CRC. Second, its Preamble states that intercountry adoption may be a solution – meaning that other solutions can be considered – if no family is found nationally. This last phrase implies two things: that efforts have been made to find a family (and not just an adoptive family) at national level, and that permanent, alternative family-based care has been identified as the best option for a particular child in view of his or her circumstances at a given moment. In other words, despite appearances, the wording of the Hague Convention is rather akin to that of the CRC, even though it approaches the issue from a slightly different standpoint.

The three key problems posed when considering the two provisions of the CRC cited above are: what is meant by the term ‘institution’, how are we to determine if it is ‘suitable’, and how should we interpret ‘if necessary’.

What is an institution?

In response to the first, the CRC itself not surprisingly gives no explicit indication, but the contextual implication is that ‘institution’, by default, would cover any type of non-family setting (potentially ranging from ‘family-type’ or group homes through to ‘old-style’ residential complexes for several hundred children). This would explain why, despite the generally well-earned negative connotation of the word, some ‘institutions’ could be clearly be qualified as ‘suitable’.

In this respect, it is also well worth remembering that we are now nearly twenty years down the road from the moment that the drafting of the CRC was finalised. The term ‘suitable institutions’ was endorsed when the first draft of this provision was drawn up in 1982, and was maintained throughout the drafting and review process which was completed in early 1989. While the idea of ‘de-institutionalisation’ was certainly gaining ground during the 1980s, it was still very much a new idea for many. This was notably the case for government delegations from the then-USSR and other Socialist countries that were very active in drafting. Institutional placements were (and too often regrettably still are in practice) the foundation of alternative care policy in those countries, of course, and this would only begin to be questioned once ‘transition’ had begun in the 1990s. It is therefore perhaps not surprising that the CRC might reflect the realities of those times. This, it can be noted in passing, is just one illustration of why the CRC is a landmark document but not necessarily the ‘ultimate’ enumeration of children’s rights.

Confusion over terminology was hardly helped, moreover, by the recent Recommendation to Member States on Children’s Rights in Residential Institutions, adopted by the Committee of Ministers of the Council of Europe.⁶ Despite “institutions” in its title, its own second guideline in fact specifies that placement should be in “a small family-style living unit”, a kind of facility that, in the minds of most, would not

readily be associated with an institutional setting as such, but which could be eminently ‘suitable’.

Suitable or not?

Assessing ‘suitability’ itself is much more complicated. The first condition is that the facility meets certain basic criteria: as the CRC puts it, in a minimalist manner: “institutions, services and facilities for the care or protection of children shall conform with the standards established by competent authorities, particularly in the area of safety, health, in the number and suitability of their staff, as well as competent supervision” (art 3.3). That is not particularly helpful, and indeed harks back, some might well say, to the kind of medicalised and administrative approach characterising the worst kinds of ‘institution’. There is no indication in

the CRC of requirements regarding, for example, size, location, organisation, régime or ultimate goal. We need to look at subsequent texts, such as the above-mentioned Council of Europe Recommendation⁷, for inspiration in that regard – and this is a further demonstration of the need for international guidelines to facilitate implementation of the CRC in this sphere, moreover (see box on “Reaching consensus on international guidelines”).

The other side of the “suitability” coin is of course that the facility meets, in a positive manner, the needs of the individual child concerned at a given moment in time, with that child’s future in mind. This aspect of suitability thus depends not only on the validity of the decision-making process regarding the placement of a given child and

Reaching consensus on international guidelines

In recent years there has been an unprecedented level of awareness about the urgent need to join forces in improving substantially the quality of out-of-home care. A number of factors have undoubtedly spurred this development: first among them, of course, the situation of children orphaned by HIV/AIDS, but also, for example, the ‘outing’ of conditions in institutions in many CEE/CIS countries, in-depth investigations of abuse in care facilities in Western Europe, and inappropriate responses – in particular by foreign private agencies – to children in emergency situations.

One result was the creation of the **Better Care Network**, initially an informal and rapidly growing group of individuals seeking to share concerns and experience in order to promote best practice in the sphere, but recently evolving into a more structured network, with a fulltime co-ordinator hosted at UNICEF headquarters in New York.

Another was the joint initiative taken by **International Social Service**, a Geneva-based NGO, and **UNICEF** in 2004 to document the main issues as a basis for calling for the development of international standards on out-of-home care. This call was taken up by the UN Committee on the Rights of the Child which, in a Decision from its 37th Session in September 2004, recommended

the preparation of “draft UN Guidelines for the protection and alternative care of children without parental care”.

Within a few weeks, a **Working Group** was established within the NGO Group for the Convention on the Rights of the Child, bringing together a wide range of international expertise and experience, whose first task was to produce a document setting out the potential scope and approach of such Guidelines. This was one of the papers submitted to the **Day of Discussion** (16 September 2005) that the UN Committee on the Rights of the Child organises every year, this time focused on “children without parental care”, and which attracted well over 200 participants, a record number for this annual event demonstrating the extent of concern.

A major recommendation from this Day of Discussion was that international guidelines on the question be drawn up for adoption by the UN General Assembly, possibly as early as September 2006. The NGO Working Group, in consultation with the Better Care Network and others, including young people, has taken on the task of developing the first draft of this document, which is likely to be made public during the first quarter of 2006.

the availability of options in practice, but is also inextricably linked to the obligation to ensure ‘periodic review’ of any placement for the purpose of care and protection (art 25). Equally it calls into play the proper application of the child’s right to have his or her best interests underlie all decisions and to have his or her views thereon taken into account (and as has been pointed out in ECM103, even very young children are capable of ‘having their say’).

It follows that one criterion for determining a facility’s ‘suitability’ is the extent to which it works, within the childcare system, to ensure that a child remains there only as long as is necessary. This means that it should both initiate and cooperate with efforts to secure the child’s return to the family or move to a ‘permanent’ family-based setting wherever possible. A major problem associated with “institutional placements” is that in practice they too often become long-term or permanent precisely because effective responsibilities are not assigned for identifying appropriate alternatives for each child.

Necessity: the mother of invention?

The insertion of the words “if necessary” before the allusion to institutional care is instructive. It reflects both the ‘de-institutionalisation’ thrust that was beginning to gain a hold in the 1980s when the drafting of the CRC took place, and the fact that, invariably, ‘institutions’ were synonymous with long-term placement in large facilities. Certainly, and for many reasons, it is still the case that childcare policy and individual ‘institutions’ in most countries rarely seem to be significantly oriented towards providing short-term care with a view to enabling the child to return to parents or kin as quickly as possible. The unfortunate consequence is that the term “if necessary” is in practice invariably interpreted from the standpoint of the system (“nothing else is available”) than from the standpoint of the child (“at this moment, this will best meet the child’s needs”). In other words, “if necessary” is seen to qualify an intrinsically undesirable care option to be used only for want of better. And that, clearly, is no way to approach potential alternative care solutions for any child.

What is evident from the above considerations, taken together, is that an attempt simply to set

‘institutional placements’ against ‘intercountry adoption’ is not only futile but dangerously misleading in terms of evaluating the appropriateness of care responses. Obviously, ‘institutional care’ cannot be condoned if the various criteria for its suitability are not met, and this is undeniably the case at present for most such placements in most countries – including in particular those whose children are adopted abroad in significant numbers. But the reaction cannot then be, simplistically, to look upon adoption abroad as the patently better option. The real issue is to examine more closely the fundamental reasons for which children are in out-of-home care in the first place, why so many of them are in residential care, and especially why ‘unsuitable institutions’, and the various public and private systems that maintain them, still manage to flourish whereas family support initiatives find it hard to survive. Not least in this respect, it would be worth asking a very naive question: why are institutions so frequently referred to – or call themselves – by the highly emotive epithet ‘orphanage’ when only a very small minority (usually 5 to 10%) of children in their care are in fact orphans? For child welfare, the answer to that one question might well contribute a great deal more than arguing the relative merits of residential placements and intercountry adoption.

Regrettably, moreover, continuing recourse to intercountry adoption on a significant scale, justified by the acknowledged unsuitability of institutional placements, often has the secondary effect of disguising the need and reducing motivation for undertaking such assessments – not to mention diverting the resources required for doing so. In addition, and perhaps most perversely, initiatives from the same countries to which intercountry adoptions are effected are often financing and promoting ‘orphanages’ in the children’s countries of origin.

An agenda for discussion

This article suggests that alternative forms of care constitute a range of options, not a top-down listing. Certainly, one would normally begin by looking at the various family-based care possibilities, and then move along the spectrum to residential care, when considering the placement of a child. But the choice would be a function

of that child's needs, characteristics, history and situation, and not based on the perception of the inherently and increasingly negative quality of the solution as one goes along that spectrum. This is not a new approach as such, of course, but it tends to receive far less attention than the demonisation of residential care and the call for 'de-institutionalisation at any cost'.

The question that should be asked, then, is not "what is the last resort solution?" but "what solution would and could correspond best to the circumstances, experiences, needs and wishes of this particular child?" This has led Save the Children UK, for example, to start tackling the question from the other end, looking at supporting children through positive care options – the 'first resort'. Only by approaching out-of-home care in this manner can we hope to spur the necessary changes and developments that could ensure 'suitable' care for all.

"There is no ideal solution to the loss of a parent, only better or worse alternatives."⁸ In this overview of selected challenges for out-of-home care provision, the main aim has been to examine the basis on which 'better' and 'worse' might be validly assessed, and to do so in the light of approaches justified by the CRC.

Given the wide range of reasons why children are, or are rightly or wrongly deemed to be, in need of out-of-home care, the diverse country situations, and the special concerns stemming from the effect of emergencies and the HIV/AIDS pandemic, it is impossible to set out a single comprehensive agenda. But some general points for positive action can be emphasised:

- Inadequate family support feeds care systems that are more costly than the support would have been: family preservation should be the first requirement of a policy on alternative care.
- Care systems tend to retain the children entrusted to them: family reintegration should be the prime objective of alternative care.
- A full range of care options is required: the simplistic hierarchical consideration of these options – according to which 'family-based' is by definition 'good' and 'residential facilities' are at best 'the last resort', at worst 'bad' – is the wrong

basis on which to approach the question of out-of-home care.

- The 'best' option is the one that responds in the most appropriate way to the situation and needs of a given child at a given moment: consequently the option chosen needs to be reviewed as his or her situation and needs evolve.
- Kinship care solutions, including child-headed households, need to be supported as valid care options, but with attention to risks.
- Foster care cannot be expected to bear the burden of de-institutionalisation policies: needless entry in to the care system – particularly where material poverty and marginalisation are the essential causes of relinquishment or removal – is the main problem to be tackled.
- Residential care is not 'institutionalisation' if it responds to the right child at the right time, is conceived as a family-type or small group home, and is directed towards preparing the child for return home or another stable 'non-residential' living environment.

Alongside such promotion of rights-based best practice, however, a clear battle still needs to be fought against the 'institutional' response. This will in some cases require directly influencing government policies, making best use of the arguments that the CRC and other documents enable us to muster. But even more important, perhaps, will be enabling the authorities to resist effectively the setting up of 'orphanages' by foreign private groups from countries whose very own experience has clearly shown that they simply do not work...

Notes

- 1 In the wake of the October 2005 earthquake, Pakistan similarly imposed a ban on intercountry adoption.
- 2 Child Welfare League of America
- 3 us Department of Health and Human Services, afcars, October 2000 estimates
- 4 *Research into the living conditions of children who are heads of household in Rwanda*, Agency for Cooperation and Research in Development (ACORD), London, March 2001
- 5 South African Law Reform Commission, *supra* footnote 9.
- 6 Rec (2005)5, adopted 16 March 2005.
- 7 *Op. Cit.*
- 8 John Williamson, in his Foreword to "A Family is for a Lifetime" (see "Further reading" in this ECM)

Young children in institutional care in Europe

Kevin Browne, Catherine Hamilton-Giachritsis, Rebecca Johnson and Shihning Chou
(Centre for Forensic and Family Psychology, University of Birmingham, UK)

Research shows that young children are frequently placed in institutional care throughout America, Europe and Asia. This occurs despite wide acknowledgement that institutional care is associated with more negative consequences than family-based care. For example, children in institutional care are more likely to suffer from attachment disorder, developmental delay and deterioration in brain development (Johnson et al 2006).

In collaboration with the World Health Organization (WHO) Regional Office for Europe, the University of Birmingham carried out a survey of 33 European (excluding Russian-speaking) countries in 2002, as a part of the EU Daphne programme to combat violence to women and children. The study mapped the number and characteristics of children under the age of 3 in residential care (Browne et al 2004, 2005a) and found 23,099 children aged less than 3 years (out of an overall population of 20.6 million under 3) had spent more than three months in institutions, of ten children or more, without a parent. This represents 11 children in every 10,000 under 3 years in residential care institutions.

The figures varied greatly between the different countries. Four countries had none or less than 1 per 10,000 under-3's in institutions, 12 countries had institutionalised between 1 and 10 children per 10,000, seven countries had between 11 and 30 children per 10,000 and, alarmingly, eight countries had between 31 and 60 children per 10,000 in institutions. Switzerland and Luxembourg could provide no information. Only Iceland, Norway, Slovenia and the UK had a policy to provide foster care rather than institutional homes for all needy children under the age of 5. Of most concern were the 15 countries with over one baby in every thousand (10 per 10,000) living the first part of their lives in institutions without a

parent. These countries were Belgium, Bulgaria, Czech Republic, Latvia, with over 50 per 10,000; Hungary, Lithuania, Romania, Slovak Republic with over 30 per 10,000; Finland, Malta, Estonia, Spain with over 20 per 10,000; and Netherlands, Portugal and France with over 10 per 10,000).

Another 2002 survey of Eastern Europe and Central Asia (UNICEF Innocenti 2004) showed most Russian-speaking countries to have at least 20 children in every 10,000 under 3 in 'infant homes'. Pearson product moment correlations performed on the 11 countries that appeared in both surveys revealed a significant level of correlation ($r = 0.633$, $p < 0.04$). This suggests that, although information difficulties exist, reasonable estimates can be made and the data is reliable enough to inform policy and practice.

Browne et al (2006) averaged the data from both surveys. They calculated the number of under-3's in institutional care for 46 out of the 52 countries (88.5%) of the WHO region member states (FYR Macedonia, Israel, Luxembourg, Monaco, San Marino and Switzerland were not included). The resulting figure was 43,842. Since the estimated total population of children in that age group is 30.5 million, that gives a rate of institutionalisation of 14.4 per 10,000. The greatest numbers of under-3's in institutional care were found in Russia (10,411), Romania (4,564), Ukraine (3,210), France (2,980) and Spain (2,471).

However, Carter (2005) claims that the overuse of institutional care for children is far more widespread than official statistics suggest. He states that the NGO 'EveryChild' estimates the actual number of children in social care facilities in Central and Eastern Europe and the former Soviet Union to be approximately double that officially reported. Over the past 15 years, Carter (2005) observes a small decline (13%)

in the absolute number of children in institutional care in this specific region. However, if the decline in birth rate is taken into account, the proportion of the child population in social care facilities has actually increased by 3% since the collapse of the communist system. He proposes the reason to be the social consequences of economic transition in these countries. This has led to increased unemployment, migration of workers, family breakdown and single parenthood. Hence, living in “poverty is a significant underlying factor in the decision” to place a child in institutional care. Nevertheless, research surveys have discovered that there are many institutionalised young children in most parts of Europe.

Reasons for institutional care

When comparing Western Europe with other parts of Europe, Browne et al (2004) find different reasons for children being taken into institutional care. Figure 1 gives the official cited reasons for under-3's being in social care facilities for six of the 14 EU member states using this practice (UK excluded) in 2003. The vast majority of children (69%) were placed in residential care institutions because of abuse and neglect, 4% due to abandonment, 4% because of disability and 23% for social reasons, such as family ill-health or parents in prison. No biological orphans (i.e., without living parents) were placed in institutions.

By contrast, figure 2 gives the official cited reasons for under-3's being placed in social care facilities

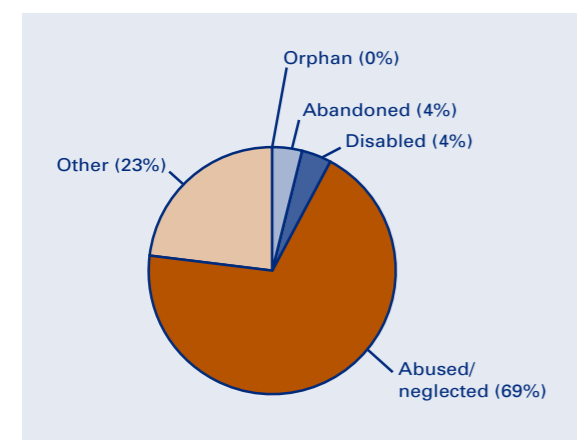


Figure 1. Reasons for institutionalisation of under-3's in the European Union, 2003 (data from Belgium, Denmark, France, Greece, Portugal and Sweden)

for 11 of the 14 other countries surveyed with this practice (Iceland, Norway and Slovenia excluded) in 2003. Only 14% were placed in institutions due to abuse or neglect, 32% were abandoned, 23% had a disability, 25% were 'social orphans' (placed because of family ill-health and incapacity) and 6% were true biological orphans.

Overall, children were most often institutionalised in Western Europe for abuse and neglect whereas, in other parts of Europe, it was mainly because of abandonment and disability. This evidence supports Richard Carter's idea of institutional childcare being associated with poverty and social change in countries experiencing economic transition. Overall, only 4% of children in institutional care were biological orphans (both parents deceased), despite the fact that institutions for young children are often called 'orphanages'. This title gives a very distorted view of the actual situation and promotes national and inter-country adoption at the expense of parental and child rights.

Promoting the rights of the child

Countries in transition have been observed to use international adoption as an economically attractive solution to prevent long-term institutional care of children. According to the United Nations Convention on the Rights of the Child (CRC), every child has the right to grow up in a family. However, employing inter-country adoption as a solution to long-term institutional care is not always in the best

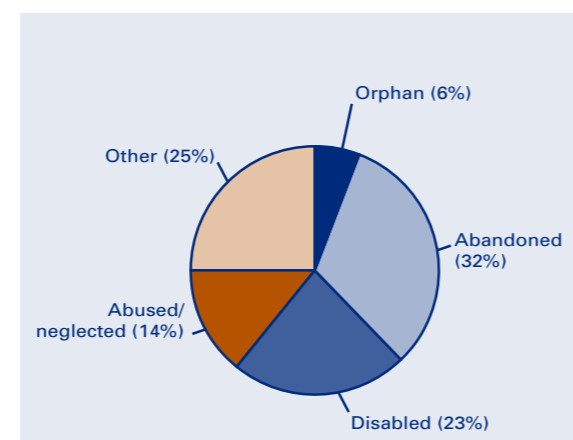


Figure 2. Reasons for institutionalisation of under-3's in other surveyed countries of Europe, 2003 (data from Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Romania, Slovakia and Turkey)

interests of the child (Bainham 2003). According to Article 21 of the CRC (UN 1989), it should only be considered as a last resort.

Countries in transition that provide a market for international adoption would better serve the interests of their children by developing adequate community support services. In this situation, healthcare and social services support would be offered to parents and surrogate parents before adoption is considered. Yet, this rarely happens (Bainham 2003).

Countries with low public health and social services spending are more likely to have higher numbers of institutionalised children. This is possibly due to a lack of the mother-child residential care facilities and counselling services that can prevent abandonment and rehabilitate parents who are at risk of abusing/neglecting their child. Furthermore, in the absence of adequate health and social services for parents (e.g., mental health and alcohol/drug addiction services), children are likely to remain in institutional care for longer periods of time and adoption may become their only way out.

Browne et al's (2004, 2005a) European survey found a significant positive association between gross domestic product (GDP) and abuse and/or neglect being the cited reason for placing children in residential care. This is not surprising given that child protection procedures are associated with economically developed countries. Overall, countries with lower GDP and health expenditure had larger proportions of young children in institutions. Reasons for institutionalisation were associated mainly with abandonment, disability and medical problems.

The survey also showed that Central and Eastern European countries in transition spent less on institutional care per child compared with economically developed countries in Western Europe (with the exception of Portugal). Therefore conditions for a child in institutional care were



Girl living in a Moscow home for girls neglected or abused by their parents. In the absence of adequate health and social services for parents, children are likely to remain in institutional care for long periods of time.

much better in the second 'developed' country group. Nevertheless, from observation, the better conditions are mainly associated with the physical care of the child and the physical environment of the institutions rather than social care and an interactive environment. Regardless of a country's expenditure per child, the survey consistently found the mean cost of residential care to be significantly higher than the mean cost of foster care for both disabled and able-bodied children. Hence, family-based care for children in need can benefit the taxpayer as well as the child.

Moving children out of institutions

The latest research from the Daphne programme team (Browne et al 2005b) looked at residential care for the under-5's in seven European countries (Denmark, France, Greece, Hungary, Poland, Romania and Slovakia). The data show the average age of children entering an institution (of 25 children or more) to be 11 months. Children spend an average of 15 months in institutional care before being placed elsewhere. Approximately one in five children returned to their parents or relatives, 63% entered a new family (foster care or adoption) and a quarter were moved to another institution (of 11 children or more). The study found that countries with better community support services were more likely to base their decisions on the child's needs and to provide better preparation for the move. Most countries assessed children's physical, health

and developmental needs together with the physical environment and carer suitability. However, only half of the disabled children had their disability assessed as part of the decision-making process and only 38% of children with siblings were placed with one of their siblings.

It is important to emphasise that the deinstitutionalisation process may further damage children if the transition is too rapid, as observed in Romania (Mulheir et al 2004) or if the needs of the children are not considered or treated as a priority. Up to a third of children who leave institutions show disability or developmental delay and require follow-up home visits by professionals and a significant investment from community health and social services (Browne et al 2005b). Investing in such community services may help prevent children entering residential care in the first place. In most countries of the European region, state-funded community care of children requires further investment and development in order to promote the rights of the child in line with the CRC (UN 1989).

Conclusions

Normal child development is based on regular and frequent one-to-one interaction with a parent or foster parent. This is especially important for the under-3's because the early years are critical for brain development. Therefore, it is recommended that no child of less than 3 years should be placed in a residential care institution without a parent/primary caregiver. High-quality institutional care should only be used as an emergency measure to protect or treat children. Even then, it is recommended that the length of stay should be as short as possible and non-violent parents should be encouraged to visit or stay with the child. Hence, the vast majority of childcare experts argue that *all* residential care institutions for children under five should be closed and the children in them returned to family-based care. However, the under-5's currently living in institutional care should be moved to family-based care only when foster families have been carefully assessed, recruited and trained and associated community services are in place. Deinstitutionalisation without comprehensive assessments on the suitability of kin, foster or adopting family carers, prior to the move, will place

the child at risk of entering a placement that cannot meet their needs.

References

- Bainham A. 2003. International adoption from Romania: Why the moratorium should not be ended. *Child and Family Law Quarterly*, 15: 233–236.
- Browne K.D., Hamilton-Giachritsis C., Johnson R., Agathonos-Georgopoulou H., Anaut M., Herczog M., Keller-Hamela M., Klimackova A., Leth I., Ostergren M., Stan V. and Zeytinoglu S. 2004. Mapping the number and characteristics of children under three in institutions across Europe at risk of harm. (European Union Daphne Programme, Final Project Report No. 2002/017/C), EU/WHO/University of Birmingham, Birmingham, England: University Centre for Forensic and Family Psychology.
- Browne K.D., Hamilton-Giachritsis C., Johnson R., Chou, S., Ostergren, M., Leth, I., Agathonos-Georgopoulou H., Anaut M., Herczog M., Keller-Hamela M., Klimackova A., Stan V. and Zeytinoglu S. 2005a. A European survey of the number and characteristics of children less than three years old in residential care at risk of harm. *Adoption & Fostering*. 29(4): 23-33.
- Browne K.D., Hamilton-Giachritsis C., Chou S., Johnson R., Agathonos-Georgopoulou H., Anaut M., Herczog M., Keller-Hamela M., Klimackova A., Leth I., Mulheir G., Ostergren M. and Stan, V. 2005b. Identifying good practices in the deinstitutionalisation of children under five years from European institutions. (European Union Daphne Programme, Final Project Report No. 2003/046/C), EU/WHO/University of Birmingham, Birmingham, England: University Centre for Forensic and Family Psychology.
- Browne K.D., Hamilton-Giachritsis C., Johnson R. and Ostergren M. 2006. The extent of institutional care for young children across the European region: A cause for concern? *British Medical Journal* (In press).
- Carter R. 2005. Family Matters: A study of institutional childcare in Central and Eastern Europe and the Former Soviet Union. London: Everychild.
- Johnson R., Browne K.D., Hamilton-Giachritsis C.E. 2006. Young children in institutional care at risk of harm. *Trauma Violence and Abuse*, 7(1): 1–26.
- Mulheir, G., Browne, K., Darabus, S. Misca, G., Pop, D. and Wilson, B., 2004. De-institutionalisation of children's services in Romanian: A good practice guide, Bucharest, High Level Group for Romanian Children/UNICEF (ISBN: 973-8411-26-2)
- UN 1989. United Nations Convention on the Rights of the Child (UNCRC). New York: United Nations.
- UNICEF Innocenti 2004. Innocenti Social Monitor. The Monee Project. Florence: United Nations Children's Emergency Fund (UNICEF Innocenti Centre).

The untouchable guardian

The State and Aboriginal children in the child welfare system in Canada

Cindy Blackstock (First Nations Child and Family Caring Society of Canada) and
Jordan Ann Alderman (Former Associate Director, National Youth in Care Network)

Child welfare work has two key purposes: 1) to enforce legislative standards for the safety of children; and 2) to provide for children removed from their caregivers by the State (Martin 2003). In Canada, the State is guardian to over 85,000 children in care (Tweedle 2005). The State therefore touches the lives of many families, yet it remains largely untouched by enforceable policing of its own responsibilities.

This is particularly true for Aboriginal¹ children who are vastly over-represented in the Canadian child welfare system. Despite representing only 5% of the child population, Aboriginal children account for an estimated 30–40% of children in state-run or state-sanctioned child welfare authorities (Farris et al 2003). Blackstock et al (2005) indicated that Status First Nations children constitute the majority of Aboriginal children in care. The authors noted that amongst three provinces collecting disaggregated child-in-care data, 10% of the population of First Nations children were in child welfare care. This compares to just over 0.5% of other children and 0.31% of Metis children. National data from the Department of Indian Affairs and Northern Development suggests that the number of Status Indian² children resident on reserves has increased by a staggering 70.4% between 1995 and 2003 (Canada 2003). Young children aged 0–7 represent over 50% of Aboriginal children coming to the attention of child welfare (Trocme et al 2004). However, to date there has been very little analysis on the developmental impacts of child welfare intervention on Aboriginal children in their early years.

This article argues that the failure of the state to redress disproportionate structural risks to Aboriginal children, to provide equitable family

support and proper support for Aboriginal children in care places the child welfare system in a situation where it may well be neglecting the very children it removed from families for reasons of neglect. Recommendations for policy change are discussed.

Child welfare delivery to First Nations children and families in Canada

Each of Canada's 10 provinces and three territories has jurisdiction over child welfare in its region. The federal government funds child welfare services for Status Indian children resident on reserves. As a result of mass removal of First Nations children from communities in the 1960s, First Nations began developing their own child welfare programmes on reserves. These are known as First Nations Child and Family Service Agencies (FNCFSAs). They must operate pursuant to the provincial child welfare legislation. However, they are funded by the federal government for on-reserve services pursuant to a national funding formula known as Directive 20–1 (except in Ontario where a separate funding agreement exists). It is important to note that there is no link between the provincial jurisdiction and the federal funding formula. First Nations have reported that funding levels have not kept pace with legislative requirements. This has resulted in a two-tiered child welfare system, where First Nations children on reserves receive inferior child welfare services. FNCFSAs report (and research confirms) that funding levels supporting a myriad of child welfare services (including child maltreatment prevention) are inequitable (McDonald and Ladd 2000; Blackstock et al 2005.) Off reserves, the provinces have sole jurisdiction and responsibility for child welfare services for First Nations children and their families. In the past, the provincial child welfare authorities (or agencies under license from

the province) provided the vast majority of child welfare services to First Nations children, but recently there has been modest development of Aboriginal child and family service agencies serving urban areas.

Identification and response to child maltreatment

The Canadian Incidence Study of Reported Child Abuse and Neglect (Trocmé et al 2001) indicates that First Nations children comprise the largest group of Aboriginal children coming to the attention of child welfare authorities (65% of investigated cases). Aboriginal children were less likely than their non-Aboriginal peers to be reported for physical or sexual abuse but were twice as likely to be reported for neglect. The key drivers of neglect were poverty, poor housing and substance misuse (Trocmé et al 2004).

Theoretically, assessment of neglect should consider whether the caregiver can influence the risk factors that lead to child neglect. However, Aboriginal parents are unlikely to improve their living standards or housing without external support. Ida Nicolaisen, a member of the United Nations Permanent Forum on Indigenous Issues, observes that although the source of the risk to the child may be structural, the assessment of responsibility for changing the risk continues to reside with the caregiver, meaning that ‘indigenous children continued to be removed from their families by welfare agencies that equated poverty with neglect’ (United Nations 2003, p. 5).

First Nations children served by provincial child welfare authorities

Although many provinces report disproportionate rates of First Nations children in care, there has been a lack of proportionate investment in research designed to analyse the efficacy of mainstream child welfare approaches for First Nations children and families. The importance of further study in this area is underlined by one province that recently undertook a review of its family support expenditures related to First Nations children in care. First Nations children represent over 80% of the children in care in this province and the province has made an effort to work with First Nations people to redress the situation. Despite the provincial goodwill, an analysis of the family support

budget revealed that only 20% was allocated to First Nations families (Flette 2005.) Children’s advocates in several regions continue to encourage the provinces to further develop culturally appropriate services in partnership with First Nations, Métis and Inuit peoples (Saskatchewan Children’s Advocate 2004; Alberta Child Advocate 2005).

First Nations child and family service agencies

As noted earlier, FNCFSAS are funded by the federal government pursuant to a national funding formula but must follow provincial child welfare legislation. This operational regime restricts the degree to which services can be culturally based. It also introduces a context in which the agency itself has little or no influence over the statutory responsibilities it must uphold or the amount of resources it receives. The situation is further complicated by the fact that the legislation and funding amounts are not linked. FNCFSAS thus report that funding levels have lagged behind progressive legislative changes, resulting in inequities of service to children on reserves. These reports have been confirmed by three separate studies (McDonald and Ladd 2000; Shangreaux 2004; Blackstock et al 2005). MacDonald and Ladd (2000) found that FNCFSAS receive an average of 22% less per child than mainstream child welfare agencies, despite the higher service needs of families on reserves. Shangreaux (2004) confirmed that FNCFSAS report significant under-funding of prevention services. The same author notes that this under-funding and the resulting lack of services has resulted in higher numbers of First Nations children being placed in child welfare care.

To make matters worse, most provincial governments provide no funding for family and child support services on reserves. Neither is there much help from voluntary sector organisations (Blackstock 2005 Nadjiwan and Blackstock 2003). In contrast, non-Aboriginal families who are experiencing or at risk of experiencing child maltreatment benefit from both of these service sectors and from enhanced levels of family support provided by mainstream child welfare services. Given the multi-generational impacts of colonisation, the resulting high levels of service need, and the comparative dearth of family and child support services, it is not surprising that First Nations children are over-represented in care.

The State as guardian for children in care

Unfortunately, despite the large numbers of Aboriginal children coming into contact with child welfare, there are no studies examining their specific experiences. However, research documenting the views of young people in state care in Canada indicates that the quality of care has not improved significantly over the past 30 years (Alderman 2003). Findings suggest that young people continue to face early and abrupt emancipation from care, multiple placements, inadequate physical and sexual health care and poor educational outcomes. They also have no meaningful participation in the decisions that affect them (National Youth In Care Network 2001; Casey Family Programs 2001). Additionally, young people report that the child welfare system is over-reliant on pharmaceuticals to control problem behaviour. In addition, there is inadequate counselling and peer support to address the causes of behavioural problems. Overall, the perception of young people in care is that they are stigmatised and marginalised and devalued as citizens because the state deemed itself a better ‘parent’ than their own families (Lambe, in press; Manser 2004).

“After the tour of that facility, I was appalled. I would not, and could not, eat in that cafeteria.”
(Conference participant comment after a tour of a 200-bed group home for youth, 2004)

The State, having removed children from their homes for neglect and child maltreatment, surely has an obligation to model the highest level of parenting that it expects from its citizens. The cessation of state responsibility for children in care is also a problem. As Statistics Canada (2002) indicates, most young people will return home to live with their families at least once during their early 20’s, and the average leaving home age is around 24 years. Child welfare authorities, however, continue to use age guidelines for the discharge from care (typically 16 years to 18 years) resulting in many young people not receiving supports needed in early adulthood.

On a more positive note, there is some evidence to suggest that FNCFSAS are much more effective at ensuring that First Nations children are placed with culturally matched caregivers than mainstream agencies (Blackstock et al 2005). For example, a sample of 12 FNCFSAS reported that they were able to

place 74% of children in care in culturally matched placements. This compared to a rate of 2.5% for the province of British Columbia (B.C. Children’s Commission 1998).

Turning the corner: An opportunity for change

As the First Nations Child and Family Caring Society of Canada noted in its submission to the Senate Human Rights Committee (2005), there is a need to understand that the risks facing First Nations children and young people are not intransigent – it is possible to make a difference for this generation. The first step involves breaking the systemic tolerance of the high degree of risk experienced by First Nations children. This could be achieved by employing a sustained level of attention and investment proportionate to the need. The following actions by the child welfare system would also significantly augment the quality of care provided to First Nations children, young people and their families:

1. Affirm the ability of Aboriginal peoples to make the best decisions for Aboriginal children and young people.
2. Provide equitable and culturally appropriate family support services that provide First Nations caregivers the same opportunity to care safely for their children as their non-Aboriginal peers.
3. Provide social work to better identify and respond to structural risk factors that impact on the safety and well being of First Nations children and families.
4. Ensure that children in care receive a level of parenting from the state that reflects the sacred trust and responsibility of being a parent – for life, not just to age 16 or 18.
5. Improve coordination of efforts between early childhood programmes and child welfare.
6. Ensure consistent collection of disaggregated child welfare data by Aboriginal cultural group and by developmental stage amongst all provinces and FNCFSAS.
7. Ensure that child welfare monitoring systems have the authority to enforce compliance with evidence-based recommendations for policy and practice change.

As a State Party to the United Nations Convention on the Rights of the Child and one of the richest nations in the world, Canada must move forward

to implement progressive policy solutions in partnership with First Nations. There are many reasons why Canada should make a difference for First Nations children – perhaps the most important reason is because it can.

References

Alberta Child Advocate. 2005. Stand up for kids. www3.gov.ab.ca/cs/ocya/main_links_publications.html

Alderman, J. 2003. Primer, encouraging informed and sensitive interactions between youth in care and their child care worker. *Journal of Child and Youth Care Work* 18: 104–114

Blackstock C. 2005. Same country; same lands; 78 countries away. *First Peoples Child and Family Review* (in press). Winnipeg, Canada: First Nations Child and Family Caring Society of Canada and the Centre of Excellence for Child Welfare

Blackstock C., Prakash T., Loxley J. and Wien F. 2005. Wen:de we are coming to the light of day. Ottawa, Canada: First Nations Child and Family Caring Society of Canada

British Columbia Children's Commission 1998. Children's commission Annual Report 1996–1997. Victoria, Canada: The Children's Commission

Canada. 2003. Indian and Northern Affairs Canada (INAC) basic departmental data. Ottawa, Canada: Department of Indian Affairs and Northern Development

Casey Family Programs. 2001. It's my life. Seattle, USA: Casey Family Programs

Martin, F. 2003. Knowing and naming care. Child welfare: Connecting research, policy and practice. In *Child Welfare: Connecting Research, policy and Practice*. Kufeldt, K. and McKenzie, B. (eds.) Waterloo, Canada: Wilfred Laurier University Press

Farris-Manning, C and Zandstra, M. 2003. Children in Care in Canada: Summary of current issues and trends and recommendations for future research. Unpublished paper prepared for the Child Welfare League of Canada for submission to the National Children's Alliance

Flette, E. 2005. Personal conversation with Elsie Flette, Chief Executive Officer of the Southern First Nations Authority of Manitoba

First Nations Child and Family Caring Society of Canada. 2005. A chance to make a difference for this generation of First Nations children and young people. Submission to the Standing Senate Committee on Human Rights. Ottawa: First Nations Child and Family Caring Society of Canada

Lambe, Y. (in press). The chemical management of Canadian systems youths.

Ottawa: National Youth In Care Network

Manser, L. (2004) Speak the truth in a million voices. It's

silence that kills: Stories for change. Ottawa: National Youth In Care Network

McDonald and Ladd. 2000. Joint national policy review on First Nations child and family services. Ottawa: Assembly of First Nations

Nadjiwan S. and Blackstock C. 2003. Caring across the boundaries. Ottawa, Canada: First Nations Child and Family Caring Society of Canada

National Youth In Care Network. 2001. Who will teach me to learn: Creating positive school experiences for youth in care. Ottawa: National Youth In Care Network

Saskatchewan Children's Advocate. 2004. 10 years of children's advocacy: Do we have your attention now? Saskatoon, Saskatchewan: Saskatchewan Children's Advocate

Shangreaux, C. 2004. Staying at home: Examining the implications of least disruptive measures in First Nations child and family services. Ottawa: First Nations Child and Family Caring Society of Canada

Statistics Canada (2002). Profile of Canadian families and households: Diversification continues. Statistics Canada cat. No. 96F0030XIE2001003

Trocmé N., Knoke D. and Blackstock C. 2004. Pathways to the overrepresentation of Aboriginal children in Canada's child welfare system. *Social Service Review*, December 2004, 78 577–600

Trocmé N., MacLaurin B., Fallon B., Daciuk J., Billingsley D., Tourigny M., Mayer M., Wright J., Barter K., Burford G., Hornick J., Sullivan R. and McKenzie B. 2001. Canadian incidence study of reported child abuse and neglect: Final report. Ottawa, Canada: Health Canada

Tweedle, Anne. 2005. Youth leaving care: How do they fare? Briefing paper for the Modernizing Income Security for Working Age Adults. Toronto: St. Christopher House

United Nations. 2003. Committee on the Rights of the Child holds a day of discussion on the rights of indigenous children. Press Release September 19, 2003. Geneva, Switzerland: United Nations.

Notes

- 1 Aboriginal describes the three groups of indigenous peoples recognised under the Constitution of Canada: Indians (also known as First Nations), Inuit and Métis.
- 2 Refers to those children under the age of 18 years who are eligible to be registered pursuant to the Indian Act.

How poverty separates children and parents

A challenge to family continuity and human rights

Jean Marie Anglade, International Movement ATD Fourth World

“In efforts to protect their children, very poor parents continually find themselves faced with unfair and inhuman choices in their daily life.” (Nitin Desai, United Nations Under-Secretary-General, 2004)

“There has... been insufficient attention paid to the impact of policies on families, and insufficient regard for the contributions families make to the well-being of their members... Policies must contribute to strengthening the support functions that families are already providing and they must help families to cope with the challenges they individually and collectively face.” (Johan Schölvinck, United Nations Division for Social Policy and Development, 2004)

In both developed and developing countries, extreme poverty often results in parents becoming separated from their children. Yet two research studies (ATD Fourth World 2004a and b) have highlighted the importance of family and community ties to those living in persistent poverty all over the world. Both parents and children expressed a deep desire that actions taken on behalf of the children should build on these ties. The issues and examples presented below are drawn from these studies.

Extreme poverty can break down family ties

As in other social environments, families living in extreme poverty can experience periods of internal tension and conflict. Insecurities (such as irregular income with resulting deprivation and frequent relocation) and humiliations in their lives often intensify such tensions and hasten the breakdown of family ties. In rich countries, the social services often consider the best way to protect children in such circumstances is to remove them from the family home through an administrative ruling or legal procedure. Although such a decision is sometimes taken with the parents' consent, the vast majority of poor families who lose their children in this way indicate that the experience feels like a punishment. Far too often, alternative solutions that would address

the underlying tensions within the family are not sufficiently explored. In addition, the aspirations of parents and children are not given sufficient weight in the final decision. Examples from the UK and the USA show this procedure often results in strained and difficult dialogue and, at times, harsh confrontations between parents and social service workers.

When the social services or the courts place children in care, the decision often seems to be based on a fear that the children's poor living conditions will harm their development or prevent them from receiving adequate schooling. Yet recent research in the UK shows that children placed in care perform far less well in school than other children, even allowing for the negative effects of lack of opportunities in early childhood (Social Exclusion Unit 2003).

In developing countries, the reasons for family break-up are quite different. Although the legal and social systems are less involved with families living in extreme poverty, separations are still imposed by social and economic realities. In Burkina Faso, for example, harsh living conditions in rural areas and the hope of a better life encourage children and young people to leave the family home for the capital city. In Haiti, many poor parents entrust the care of

The International Movement ATD Fourth World is an NGO dedicated to combating extreme poverty and promoting human rights. It was founded in 1957 in a shantytown near Paris, by Joseph Wresinski (1917–1988), who himself came from a family living in extreme poverty. ATD Fourth World teams work in 29 countries in Europe, Africa, Asia and the Americas. Through its Permanent Forum on Extreme Poverty, an international network of anti-poverty organisations and human rights defenders, the International Movement ATD Fourth World brings together experience and knowledge from over 100 countries.

their children to other families because they lack the means to bring them up or send them to school. The same reasons force parents to put their children in orphanages in the Philippines.

Family ties should be preserved

All over the world, ATD's teams have noted that the family unit is enormously important to the very poor. The family is at the core of their lives; it provides a sense of identity and it is a source of courage and strength in the struggle to pull themselves out of poverty.

For many poor people, the family circle is also one of the few places where they feel welcome and fully human. This is because they are important to the others. For example, when children from extremely poor families who are in placement turn 18 and can no longer stay in their foster homes, they frequently return to their birth parents. They knock at the door of a mother or father they may not have seen in many years, in the hope that they are still important to them.

"The placement of children in care often weakens the families that intervention is meant to help." (ATD Fourth World 2004b). This suggests it would be logical to use available resources to support disadvantaged families in their efforts to remain united. Investing in these families may well prove less costly than placing children in care. At the same time, keeping families together provides children with the affection they need for their development. Even if placement is not under consideration, one would hope that outside interventions would

strengthen rather than further weaken an already fragile family unity.

For example, one family from the USA became homeless. The only option offered to them by the social services was a shelter for women and children only. The husband had to sleep in a car for several weeks. In the Philippines, a mother requested social services assistance, but was told she had to sever all ties with the father of her children. In both cases, the mothers accepted the much-needed support, but secretly kept in touch with their partners, living in constant fear of discovery.

Neither of these fathers had been abusive to their wives or children. Although the social workers undoubtedly thought there were valid reasons for giving the mothers such an option, what they proposed went against the women's desire to keep their families together. Instead of receiving help to manage the family as a unit, a form of support that would empower them by strengthening their own capacities, the solutions offered only perpetuated their state of instability.

Thus in developed and developing countries alike, parents are faced with difficult choices and conflicting needs when it comes to raising their children. In the UK, parents participating in a meeting at Frimhurst Family House (ATD Fourth World's respite and cultural centre in the UK) defined their situation as follows:

- "Being a poor parent means having to say 'no' to my children every day of their lives."
- "Seeing foster parents get so much money to buy my children the things I could never afford to buy them."
- "Having to be better with my kids than everyone else, because someone is watching me."
- "Having no choice of where we live, what school the kids go to or what kind of jobs we get."
- "Needing help, but being too scared of being judged an unfit mother to ask for it."
- "Telling my whole life story over and over again, just to get what I am entitled to."
- "Not being able to help the kids with their homework because I never had any education."

These words could have been spoken by parents in many parts of the world.



Investing in poor families may well prove less costly than placing children in care. Keeping families together provides children with the affection they need for their development.

Broken family ties: a human rights challenge

The real-life experience of families touched by severe poverty has brought us to link the concepts of 'fundamental ties' and 'fundamental rights' because safeguarding the ties between parents and their children is intrinsically related to upholding human rights as a whole. Based on our experiences with very poor families, two guiding principles appear to be of prime importance in protecting these basic ties: 'family continuity' and 'community ties'. These principles should be taken into account in all child-related programmes or measures.

Encouraging 'family continuity'

The concept of 'family continuity' appeared first in the USA and was later developed in other countries, particularly in Sweden. It emphasises the priority that should be given to lifelong relationships; more specifically to the family ties that play a central role in child development. This means that steps should be taken to identify, support and enhance the ties

that exist, not only between parents and children, but also among siblings and members of the extended family. Relationships with grandparents, uncles, aunts, cousins or close family friends are especially important to children who are placed in care. Such ties will provide the children with a sense of continuity, since placement in foster families is likely to involve them a series of short-term, unpredictable and sometimes repeatedly broken contacts.

The network of extended family relations is drawn on and strengthened through 'family-group conferences'. These originated in New Zealand and are now being implemented in additional countries. Convened when a family is going through a difficult period or a crisis, they involve the extended family in identifying its own solutions to the problem at hand. Special attention is paid to the opinions of the parties most closely concerned, i.e., the parents and the children.

The community: A source of basic support for the poor and the very poor

At the International Children's Forum held by ATD Fourth World in Geneva, the children declared: "For us, family is the most important thing. Without families, we can't live; we can't grow up. But families can't exist unless there is friendship in our communities. Without friendship, life is not possible."

There is thus a relationship between support for family ties and support for community ties, as illustrated by projects carried out in 10 European countries (ATD Fourth World 2004b). Some of the projects sought to provide solutions in crisis situations while others focused on strengthening existing neighbourhood or community ties. One of the aims of the second type of projects was to reduce the isolation of extremely poor parents and to help them establish positive contacts in their immediate environment. Experience has shown that when families benefit from such support, it is easier to find solutions in times of crisis. These projects launched initiatives such as parent groups, outings, holidays and cultural activities with parents and children.

While societies in some industrialised countries seem to be rediscovering the importance of community ties, these still hold a central place in many developing countries. However, they are being weakened as these countries develop. In Burkina Faso, for example, initiation rites used to play an important role in community support systems. If one member of the initiation group behaved badly, it was the responsibility of the other members to put him back on the right track. In addition, any person living in the village (or neighbouring village) could correct the behaviour of another person's child. Parents were never alone in raising their children; when a parent said "no", he or she received the support of the entire village. Today, as families become more nuclear and society becomes more individualistic, fragile families are becoming increasingly isolated. While social exclusion existed in traditional societies, they invested a great deal of energy in building and maintaining community ties, and these served as a buttress, protecting individual members in times of hardship.

In both developed and developing countries, families living in extreme poverty need to find others (e.g.,

in their immediate social environment, their work place or their children's school) who can accompany them in their daily lives and who believe in their potential. In the absence of such people, social support programmes or measures are unlikely to succeed in reaching their goals.

Social care professionals obviously do not bear sole responsibility for the quality of community ties but they can play an important role in supporting their development. The mandate of social services should therefore include fostering support mechanisms within a community. In this way, they could increase solidarity and reduce the marginalisation of the very poor. It would therefore be advantageous to give social care professionals the required training and resources to do this. Such an approach would improve the wellbeing of children and their families.

References

- ATD Fourth World 2004a. www.atd-fourthworld.org/intern/docu_intern/howpov_res_en.pdf. (This report was drafted with financial support from the United Nations Department of Economic and Social Affairs (DESA). It draws on the experience of ATD Fourth World teams in Guatemala, Haiti, the USA, Burkina Faso, the Philippines and the UK.)
- ATD Fourth World 2004b. www.atd-fourthworld.org/europe/valuingchildren/index_vcvp.htm. (The study is a European Discussion Paper prepared by the International Movement ATD Fourth World with financial support from the European Commission.)
- Social Exclusion Unit. 2003. A better education for children in care. London: Social Exclusion Unit, Office of the Deputy Prime Minister

The need for international guidelines Children in prison with their mothers

Rachel Brett and Megan Bastick, Quaker United Nations Office, Geneva

If a woman with a young child is sentenced to a term of imprisonment, should her child accompany her into prison? And if a young child does live in prison with their mother, what measures are required to ensure they develop normally?

These are difficult questions, and they will be answered differently in different countries. Norway has a policy that children cannot stay with their mothers in prison at all. In neighbouring Finland, children may live in prison until they are 2 years old. In Colombia, children may live in prison until they are 3, in Bolivia until they are 6, and in a Mexican Federal prison, until they are 12 years old. In Ghana, children stay in prisons only while they are being breastfed, while in Kenya they may stay until they are 4 years old.

Facilities vary widely between and within countries. A number of countries have 'open' prisons for mothers with young children, or 'mother and baby' units. In others, babies live in prison without their presence being registered or monitored by the State, and without any special provision being made for them.

Best interests

When assessing whether to allow a particular child to enter prison (or if born in prison, to stay there) with their mother, the best interests of the child should be the primary consideration, as set out in Article 3(1) of the CRC.

However, experts disagree as to whether being in prison with one's mother is in the best interests of a child, and little research has been done to shed light on the question. Growing up in prison might retard a child's mental, emotional and physical development. At the same time, separating a

small child from its mother, particularly between the ages of 6 months and 4 years, risks damaging the mother-child relationship and the child's development (AMA 1997). Birth and early childcare expert Sheila Kitzinger argues, "Whenever a baby is taken away from its mother we punish the baby as well as the mother... Separation is an emotional mutilation for both of them" (Kitzinger 2005).

Catan (1992) studied 74 infants residing in prison units with their mothers in the UK. The author compared these with a control group of 33 infants, of which two-thirds were looked after by extended family and one-third by social services or foster parents. Catan found that a significant number of infants born in the prison nursery and then immediately placed with caregivers other than their mother did not experience the benefits of continuity of care during infancy. However, the study concluded that there was a strong, healthy attachment pattern among infants and their mothers in the prison nursery programme.

However, Catan's study identified short-term detrimental effects on the locomotor, social and cognitive development of the infants who spent four months or longer in a prison unit. These deficits disappeared soon after the infants were transferred to a non-prison environment. The researchers concluded that the nursery units were unable to promote the skills necessary for developmental growth as the child gets older, due to limitations in the design of the nurseries (lack of space and availability of toys, etc.). Busch-Rossnagel et al (1990), studying 12 infants in a US prison nursery programme, also found the children to have below-normal levels of development, and this was attributed to the lack of variety in daily stimulation.

Catan's work is interpreted as evidence that prison is not an appropriate environment for healthy child development (Howard League for Penal Reform 1995). However, the studies cited pose more questions than they answer. For example, how can the benefits of mother-child attachment be weighted against the risk of developmental deficit? What facilities would prevent any developmental deficit? At what age would developmental deficits be less apparent between children in prison and those in a non-prison environment? If the mother's prison sentence is very long, is it better for her child to be removed from her early so he/she can bond with the alternative caregiver?

The Council of Europe's Committee on Social, Health and Family Affairs (2000) has examined the question of mothers and babies in prison. The report states:

"Prison is not a healthy environment for babies and young children. The mother is inevitably under stress, prisons tend to be noisy and privacy is difficult. Stimulation is severely restricted. Many prisons holding babies and young children have few specially trained staff, poor play and exercise facilities, and the development of movement skills is restricted. Many mothers in prisons in Europe have little, or in some cases no, right to go outside the prison walls with their babies, and consequently the babies never see trees, traffic, animals or experience ordinary family life. The children have little opportunity to bond or form relationships with other family members, particularly their father and brothers and sisters. Food is often restricted to tins or prepared baby foods."

The report concludes that "keeping a baby in prison is inadvisable, and separation is damaging". The report sees the solution as lying primarily in greater use of non-custodial sentences for women offenders, recommending: "the overwhelming majority of female offenders with young children should be managed in the community". This echoes the 8th United Nations Congress on the Prevention of Crime and the Treatment of Offenders (UN 1990), in which States agreed that "the use of imprisonment for certain categories of offenders, such as pregnant women or mothers with infants or small children,

should be restricted and a special effort made to avoid the extended use of imprisonment as a sanction for these categories."

A call for international guidelines

It is certainly true that alternatives to imprisonment should be the primary focus of efforts to promote development in young children of convicted mothers. However, when deciding whether to keep young children in prison with their mothers or not, there is a need for frameworks to ensure decisions are made on a case-by-case basis. In addition, infants who are in prison need suitable facilities to ensure their healthy development. The Quaker United Nations Office in Geneva has been working within the UN system to promote some form of international guidelines that set standards for decisions regarding babies and small children living in prisons. Such guidelines should be firmly based on the CRC.

Decision-making

In all decisions concerning children of convicted mothers, the best interests of the child must be a primary consideration. This includes the responsibility of the State to ensure the child has special protection and assistance. An infant may be separated from his or her parents only when determined by a competent authority that such separation is in the best interests of the child. Decisions as to whether or not a small child lives in prison with the mother must be made on a case-by-case basis.

The decision-making process must take due consideration of the rights of all those directly affected, i.e., mothers, fathers and children, and establish mechanisms that allow all those concerned to actively participate in the decision-making process.

Provisions for children living in prison with their mother

The reception of the child into the prison should be recorded, and monitoring mechanisms must be in place to supervise the child's welfare. Child welfare services, rather than prison authorities, should have primary responsibility for making decisions regarding children in prison, and specialists in social work and child development should supervise their

care. It should be possible for the child to leave the prison at any time if circumstances dictate this would be in their best interest.

Mechanisms must be in place to protect children residing in prisons from all forms of physical or mental violence, including sexual abuse, neglect or negligent treatment whilst in the care of their parent or any other person. The use of physical disciplinary measures and corporal punishment should be prohibited. Children in prison must be given appropriate medical treatment and immunisation, and have access to specialist child health services.

Young children in prison with their mothers should be housed in special mother and child units, preferably in open prisons and certainly separate from the general prison population. These units should have all the facilities that a nursing mother would normally have in the community, and should provide the children with a stimulating and safe environment. For example, in the Netherlands

"children up to the age of four are accommodated at Ter Peel...set in 25 acres of wooded land with no high wall and minimal security. Because of this, most of the 102 mothers who used the unit in its first two years were convinced that their children did not realise they were staying in a prison...A great deal of effort has been made to provide the children with a home-like environment. At Ter Peel, ten rooms were converted to provide a purpose-built, self-contained unit suitable for babies and toddlers. Mother and baby are accommodated in two adjoining rooms, one for the mother, one for the child. There is also a communal dining room and living area with kitchen and well-equipped indoor and outdoor play areas." (Caddle 1998).

Children must be permitted to leave the prison, and should be given as many opportunities as possible to participate in ordinary life outside. For example, older children should have regular access to nurseries and preschools outside the prison to give them space for normal personal and social development. Children should also have regular contact with other family members, with their fathers in particular.

Removing the child from prison

As with the decision to allow a child to live in prison, any decision to remove a child from prison must be based on the best interests of the child, determined on a case-by-case basis. Age limits should not be applied inflexibly. Consideration must be given to how much longer the mother is likely to be in prison, and what alternative care options are available.

If a decision is made to remove a child from prison, the authorities (preferably led by child welfare specialists) must take responsibility for ensuring that good alternative care arrangements are made. All decisions as to what are the best arrangements for the child must be taken on the basis of the child's best interests. The mother, other family members, child welfare specialists, all relevant state welfare agencies and the child (if old enough), should participate in the decision-making process.

If a child is to leave the prison, special transitional arrangements such as overnight or weekend visits might ease the difficulty of separation for mother and child. These will also help the child to settle gradually into their alternative care situation. When the child is living outside the prison, every effort should be made to encourage regular and quality contact with the mother.

The growing call for attention to young children with an imprisoned mother

The UN Committee on the Rights of the Child is increasingly urging States to ensure the rights of children of imprisoned mothers. During its 2004 Discussion Day on Early Childhood Development, the Committee identified "children living with mothers in prisons" as being among the most vulnerable children. The Committee has highlighted children living in prison with their mother or father in its recent Concluding Observations regarding Iran, Bolivia, the Philippines and Nepal. A number of UN independent experts on human rights (UN Commission on Human Rights 'Special Procedures' on countries or thematic issues) have also drawn attention to poor prison conditions for children living with their mothers in Belarus, Sudan and Afghanistan.

There is an urgent need for child rights, welfare and development specialists to join in this debate and

to use their voices and their expertise to improve conditions for children living in prisons with their mothers.

References

AMA 1997. Report 3 of the Council on Scientific Affairs (I-97). Bonding programs for women prisoners and their newborn children. American Medical Association
Busch-Rossnagel N.A., Towle P.O. and Juster F. 1990. Babies behind bars: Cognitive and social-emotional development. Abstract quoted in Report 3 of the Council on Scientific Affairs (I-97)
Caddle, D. 1998. Age limits for babies in prison: Some lessons from abroad. Home Office Research, Development and Statistics Directorate: London
Catan, L. “Infants with mothers in prison.” In R. Shaw (ed) *Prisoners’ Children: What Are the Issues?* 1992: 76-95, Routledge: London
Howard League for Penal Reform 1995. Briefing Paper on Prison mother and baby units. Howard League for Penal

Reform: London
Kitzinger, S. 2005. The politics of birth. Elsevier: London
The Council of Europe’s Committee on Social, Health and Family Affairs 2000. Mothers and babies in prison. Document 8762.
UN 1990. “Resolution 19: Management of criminal justice and development of sentencing policies” in Report of the 8th United Nations Congress on the Prevention of Crime and Treatment of Offenders, 1990, UN Doc. A/ Conf.144/28/Rev. 1.



Photo: COURTESY ACTION FOR PRISON FAMILIES / EUROCHIPS

Father and daughter walking alongside a prison wall. Children and imprisoned parents should be given opportunities to have regular contact to help safeguard the children’s psychological and emotional development

Children of imprisoned parents in France

The Fédération des Relais Enfants-Parents (REP) is a French non-governmental organisation that works to raise awareness among social, political and judicial policymakers of the needs of children of imprisoned parents. REP links children with their imprisoned parents, thereby helping to safeguard their psychological and emotional development.

Out of approximately 85,000 people serving sentences or in custody on remand in French prisons each year, approximately 80 percent are parents. An estimated 140,000 children in France have parents who are imprisoned. There is no coherent policy concerning these children, nor is there any one statutory body with responsibility to deal with this issue. Few systematic records are kept on the number of children affected and data for individuals on remand are particularly lacking. Only children aged 18 months or less are allowed to live in prison with a parent.

REP works to support children of all ages, and attention is given to the specific needs of individuals. The organisation aims to restore the child’s place in the parent-child relationship. It does this by giving the child a voice in the decision-making process. Once children express a wish to visit their parents, REP strives to provide as neutral a setting as possible.

The programme does not focus on any single methodology. Instead, it has developed a mosaic of different approaches and angles and a menu of methods and strategies from which appropriate choices can be made. These include:

- accompanying children on prison visits
- providing craft workshops for imprisoned parents
- providing mediation services to improve communication between caregivers and inmates
- providing individual counselling services
- providing supervised play areas inside prisons.

The project is a joint venture between REP and the judiciary institutions, in which REP acts as a bridge between the prison and the outside world. This alliance has helped change the climate within the French penal system so that the rights and needs of children are now considered to a greater extent.

Since it was established in 1986, REP has grown from a small pilot project to a nationwide network of associations. It now reaches large numbers of children and is supported by a huge number of volunteers, who work with both parents and children. These volunteers receive training and this investment has brought dividends to the programme.

In addition to parents and children, REP works with prison personnel, nursery school teachers and social workers. These groups are open to new ideas and initiatives that will help them achieve their child-centered goals. One idea put forward by REP and adopted by social workers is the provision of maisons vertes. These are community-based meeting places where parents and children can get together outside of prison.

On the regional level, REP is a founding member of the European networking initiative known as the European Committee for Children of Imprisoned Parents (EUROCHIPS)¹, supported by the Bernard van Leer Foundation. The mission of EUROCHIPS is to monitor the welfare of the children of imprisoned parents all over Europe, to influence European regulations and to raise awareness of the need for European-wide policy that takes account of these children’s needs.

Note

1 The European Committee for Children of Imprisoned Parents is a European-wide initiative on behalf of children with an imprisoned parent. With its network of partners active within prison-related, child’s rights and child-welfare fields in France, Belgium, the UK, Luxembourg, Italy, the Netherlands, Sweden and other countries, EUROCHIPS is seeking to boost awareness and achieve new ways of thinking, acting and interacting on issues concerning prisoners’ children.

“There is an invisible social wall between children in care and the community”

An interview with Emmanuel Sherwin

Emmanuel Sherwin spent his childhood in out-of-home care in Ireland as of the age of 4: first in kinship foster care, then in residential care. Now 24, he is Youth Chairperson for the International Foster Care Organisation (IFCO) and a vocal advocate for change in attitudes and practice regarding alternative care solutions.

As Emmanuel would say, “if you’re doing market research, you don’t survey the producers, you talk to the consumers.” So for the “In Practice” section of this ECM, rather than interview the head of an out-of-home care programme, we chose to put our questions to Emmanuel.

You were already speaking out on out-of-home care issues when you were a teenager – but young people aren’t listened to, are they?

I’ve been involved in advocacy for children in care since 1996, when I was 15. In my view, 16–20-year-olds are the best placed to do this – they want to make sure that the system that failed them does not fail others.

But it’s true that, as a child or young person, it’s hard to make your voice heard. That age-old negative adult attitude towards listening to children persists, however intelligent and well-balanced the children may be. In that respect, government attitudes haven’t really changed at all either. NGOs’ ideas on this are evolving very slowly, but only one by one – it’s nothing like a collective decision.

Many NGOs try to have some kind of youth participation, but they still use the standard of adults looking and deciding: there’s no consulting after the fact. There are research projects world-wide where children and young people are interviewed, but the conclusions and proposals from the exercise are not discussed with them. Adult consultants cost a fortune, but children come free – they are a cost-free research resource!

But now you too are an adult – so has “coming of age” changed your perception of the value of what children can tell us?

In fact, when I was 15 I would not have dreamed of talking to a 3-year-old about being in care. Now that I’m 24, I actively seek out the opinions of children, including the youngest ones, that I would not have thought of talking to before. I didn’t believe they could communicate rationally, and of course I found out I was wrong. It’s a matter of training and social education for adults – and acceptance.

I’ve seen that all your emails carry the slogan “Make Baby Homes History”...

Currently this is the main advocacy thrust of IFCO. Personally I can’t imagine a worse thing than growing up in an institution, anywhere, even in the industrialised world. It’s been proven since the 1920s and ‘30s that growing up in institutional care is physiologically, psychologically and emotionally harmful for children. It’s worst, of course, for the youngest children, those in the 0–3 age-group. In the end, placing children in institutional care is virtually tantamount to choosing to handicap them for life. So indeed, we have to “make baby homes history”.

In my view, every childcare residential facility should be closed – not in the way they did in some European countries, closing them one minute and then realising the next that they needed them after all, but more like they are doing it in Bulgaria, progressively. It’s great too, that international pressure on developing countries can sometimes bring about change quicker than

in the industrialised world – just after the recent Discussion Day on children without parental care¹, for example, Argentina moved ahead with a national law to progressively close all forms of institutional care, and has asked international expert NGOs to assist them in the transition.

The aim should be to have units with something like two care staff for four or five children: the ratio has to be economically viable, of course, and they would need to have an administrator so that other staff can concentrate solely on care and not have to deal with accounts and so on. At the moment, residential care staff often tend to have to do everything, and they simply don’t have enough time to ‘care’. These units can supplement kinship or foster care by specialising in looking after children who have been severely abused – and, as far as older children are concerned, those who simply cannot function in a purely family environment because of their experiences. With staff-child ratios of 1:2, residential care could essentially come under the banner of family-based care – it would be close enough as to make little difference.

But the staff also need to feel supported. Their remuneration is often very low – because of that, you get unqualified staff, and when you put them together with disgruntled children, that becomes a no-win solution.

Can we look for a moment at your personal experience? You said you were in kinship care first, for four years. What led to your moving on to other forms of care?

In my own situation, it was a case of traditional kinship care, and there was a reliance on richer members of the family to provide for us. When the richest could no longer cope – they were starting to raise their own family – it was the next-richest that took over. We literally moved down the financial family scale, until there were no more family members available. If the social services had known about, and supported, the first kinship care placement, we would probably have remained there... I was with my brother, but my sister, who is younger than us, went into foster care – and she still is there, in fact.

I was in a permanent residential care setting from the age of 8, and I was very lucky because I benefited

from continuity of care in that a single person held my hand throughout the whole care process. The facility was a purpose-built and run by a well-endowed religious group. When I went in, there were 15 children and only one care staff per shift. By the time I left, it had changed to a State-run centre specialising in dealing with children from abusive backgrounds, and there were 11 care staff as well as two administrators for just five children. It was an interesting experience for me: it shaped my views on how childcare should go. All the staff had very specialised training both for dealing with these children and for working with the abusive parents while the children were in care. It was a fantastic set-up, and could certainly be used as a model for elsewhere. It was good to see the move away from ‘institutional care’ to what we would now call ‘an intensive residential care setting’. The kids coming into care now – in Western Europe at least – are so much more damaged and they seem to be less resilient than before, even just 10 years previously, and they need that specialised help.

When children are removed from parental care, the aim is presumably to provide a better solution – but in your experience are these children actually happier?

There are two very clear groups. For those in the first group, removal into care will definitely have been the very best choice: that was the case for me. By the time you are 6 years old or so, you are very well aware of the moment when it becomes clear that your parents could never provide for you, no matter how much support they received. If you’ve got abusive folks, there’s no reason on earth why you would want to go home. It’s quite a good, clean cut to move into what then becomes protective care. If it meets the necessary standards, of course. And in that case, the children are happier.

But the children in the other group would have been much better served if they and their families could have benefited from support – from social services, the extended family, community-based initiatives. If governments directed resources to this kind of support wherever it could bring about results, they would not only save a fortune in a very short space of time and they would also respond better to the needs and desires of the children concerned, not to mention being much more in line with their



"It's vital to take account of the social and cultural identity of the child, and his or her personal interests. And the solution needs to be found where the child lives." (Emmanuel Sherwin)

you're going to a good place but to 'residential care' – even as a youngster that negative connotation is at the back of your mind.

Then there is the stigmatisation. Can you imagine going home from school every day in a bus boldly marked with the logo and name of a charity or of the local child welfare or health service? Or to walk under an arch every day with a sign that says "Regional Health Authority" or "Childcare Centre". The NGOs are often no better than the public authorities in this. It's clear stigmatisation. And it's no better than using children for advertising – it's like putting a "Sponsored by Coca Cola" sign on all the kids' T-shirts.

obligations under the CRC [the Convention of the Rights of the Child – ed.].

No matter what has happened, what abuses or failings have occurred, something remains of the child's bond with the parents. When the decision about removal or support is made, it should obviously take account of the child's opinion depending on his or her age but, it must be said, it cannot always be in accordance with that – a child cannot always realise the consequences of the kind of solution he or she is proposing or be expected to make a rational and definitive choice in the thirty minutes it takes to make a court order.

One of your many concerns lies in attitudes towards children in care.

There is an invisible social wall between children in care and the community, and the media have a lot to answer for in having helped to build it. We need to get the media on our side, to give a balanced image of children in care. Residential care has sometimes developed the connotation of being for juvenile offenders.

So when the first thing the social worker tells you is that you're going into residential care – not that

In emergency placements, the children are sometimes picked up by the police in a marked vehicle – essentially they arrest the child and take them to the facility. One case I know in Ireland involved a boy of 6 who was picked up to be taken to a care facility by the police on the day after his parents were killed – can you imagine how he felt? I've heard other stories like that from the USA, the UK and Sweden. They are not uncommon. And of course in other countries young children are picked up by the police and placed in institutions simply because they are on the streets.

Then there's the problem of a child's isolation from the family after removal.

We've heard that when a child is removed from parental care in Poland, the aim will be to move him or her no more than 400 metres from the family home. This is a superb response. But elsewhere, sometimes we're not talking about 400 metres but 400 kilometres or more – how is the family – even outside financial considerations – ever going to be able to maintain contact with that child? Social services simply cannot make it happen.

It's vital to take account of the social and cultural identity of the child, and his or her personal

interests. When you're 8, playing football with your own team can be tremendously important. There's nothing any social services can do to maintain those bonds if the first step is to de-localise the child – even if it's just 5 kilometres, it will probably be too complicated to arrange for the child to attend his or her usual school. And, to add to the problem, instantly the whole community knows that this is a foster child or a child in residential care – more stigma!

Social workers should show children the different types of care available – a residential facility, a community-based unit, and so on – so they can have an informed say in the choice of placement.

I know it's a cliché, but it takes community to raise a child – care needs to be community-based, there has to be local involvement. And the solution needs to be found where the child lives.

Logistically it may not be easy to find a suitable and physically close alternative, but we certainly have to try to create such solutions if we are to respond appropriately to children who are removed from parental care. In the UK, Surrey County Council social services are doing a good job in this respect: they ran an advertising campaign that won the British Advertising Award one year, literally marketing foster care as a 'product' and as a profitable activity – which it actually can be if you are looking after, for example, two foster children under the right conditions.

On that issue, do you see anything wrong with the approach of making money from foster care?

Why would there be? It's like a profession! It's already a huge decision for a couple to make, to say they are willing to have a stranger in their home – and then they'll ask: "Aren't you going to pay me for it? Aren't you going to pay me enough so I don't have to do my regular job? Aren't you going to give me enough training to deal with these children?" The chances are, if the training is good enough, the cost can even be recuperated by selling the course abroad – it wouldn't be the first time.

Localising and professionalising foster care are the really important ways forward.

Another problem surely lies quite simply in the 'care environment'.

Many of the people who are developing the rules have never been involved in the system, they have never been to children's homes, they are out of touch with day-to-day realities. It's the same thing when the rules state that you have to be in by 7 PM – this is arbitrary deprivation of liberty in the guise of protection. But it's over-protection, and, in my view, it's not so much designed to protect the children, more to protect the administration from being sued. So many rules seem to be written from that standpoint. Protection needs to stop at the point where it invades the rights of children. When you don't know how to phone your parents – the staff would call them for you once a week, to keep the phone bills down – or wash your clothes, you're being deprived of education in basic life skills. I'll always remember what a Romanian kid told me when he came out of the care system there. He couldn't do anything for himself – he couldn't even change a light bulb, because it always had to be done by an employee for safety reasons. "It's wonderful to feel free of care", he said, "but now I'm lost."

There are other small things that make such a difference. You've got an assigned seat at the dinner table, there's a cup with your name taped onto it: do you have an assigned seat and one particular cup that you have to use at home?

What about access to a complaints mechanism, someone to talk to?

There's no truly effective recourse anywhere. I get the same kind of information from children in so many countries around the world – it's virtually treated as an offence to speak up about problems. And you may have been assigned a 'key worker' to confide in, but if you have an annual staff turnover of five out of 10, the key worker may hardly know who you are. First and foremost, a child needs to have an emotional attachment to someone. Some publications I've seen contain quotes from children that the key worker system saved their lives, but I believe that these comments are filtered, they only pick the one in a thousand that said that. At the end of the day, every child in care should be able to say, "This person, or this system, saved my life".

I find it very revealing, for example, that the children in care in Eastern Europe whom I've met tend to tell you everything almost without knowing you, they need to be able to express all their problems to someone, and normally they can't do this.

When they want someone to talk to, someone who can take up their concerns, children are not looking to tear down the fences round the facility, they have much more modest desires. Kids in some residential facilities in Western Europe can't even have an influence on the food they're given to eat. These kids just want to eat something they like for supper!

Foster care is completely different, there's no comparison. The family set-up provides the socially accepted mechanism for discussing problems; you can always say, "Dad, why on earth do we have to eat lasagne for dinner at 5 in the afternoon; it would be better at 7". He might not agree but at least it's been aired. There's a cultural norm for redress in the family unit, and residential facilities should be trying to approach the cultural norms of the families that the children are from.

So foster care is the answer?

As far as I am concerned, foster care only works for about 85% of kids, it doesn't work at all for the other 15%. I could never have lived in a family unit myself, but generally it must be easier if you can: there's no special logo outside the door, no bars on the windows for protection. Even so, there's still a need for a social worker to be assigned to each child in foster care so that if there are problems the child always has somewhere to turn for support. A lot of social workers nowadays are quite young, they can easily relate to kids.

But in the industrialised countries at least, foster care is usually looked on as a short-term solution: so what about longer-term stability for children?

Many foster parents love their foster children, they make no distinction between the foster child and their own biological children, especially when the placement becomes a long-term arrangement. They should be given the opportunity of having more influence over choices, of taking more responsibility – being the child's legal representative where

necessary and appropriate, instead of having to turn each time to the biological family, to a sometimes disinterested and sometimes uncooperative father or mother, for a signature or decision. Ireland recently amended its laws to give foster parents a little more say – in giving permission for emergency treatment, for example.

After "Make Baby Homes History!", I would like our next campaign in the industrialised countries to be "Adoption is an Option!" – it doesn't seem to be looked upon like that at present. The long-term plan works out in practice as an "in-care" plan; but for a child of 6 whose parents will never be able to look after him or her again, why is it not a legal requirement that adoption be one of the options in a long-term plan? It may exist as an option in theory but it's not laid on the table. Legislation is very protective of natural parents, but so many children in foster care would love to have the chance of being adopted by their foster parents. At the same time, if the foster parents were to become the legal guardians, they would take on full responsibility without any financial compensation. If your job is a foster parent, you can't just go from being paid one day to being unemployed the next, just because you adopt. At the very least there needs to be a transitional phase in terms of remuneration or allowances.

So, tackling the problems of out-of-home care in a nutshell?

We need to re-think the care system from zero. Not by trying to work out what's best for kids, but by going out to talk with them and making the change together.

Note

- 1 Day of General Discussion on children without parental care, organised by the UN Committee on the Rights of the Child, Geneva, 16 September 2005.

A Cambodian experience Promoting foster care

Laurence Gray, Director, Advocacy and Child Protection, World Vision Asia-Pacific Region

"A child deprived of living with a family is a lame child: He/she lacks part of his/her constitutive essence thus the exercise of his/her rights will also be lame." (Maria Rasa Benechtrict, speaking to the United Nations Committee on the Rights of the Child, General Discussion, Children without Parental Care, 2005)

Providing care for separated children is a challenge in all contexts. Nowhere is this more apparent than in developing countries emerging from a legacy of conflict. In such environments legal and social structures are not effective. Separated children often must fend for themselves or be placed in large orphanages. This paper describes experience with community-based alternatives for separated children in Cambodia, a country in such a situation.

Why out-of-home care is needed

Cambodia suffered throughout the 1990s from conflict, droughts and flooding. Poverty was widespread and many families became fragmented. Children often had to leave their family home to seek work in urban areas. More recently, HIV/AIDS and increasing urban poverty have added further to the numbers of children who lack adequate parental care.

Temporary shelters, such as those provided by World Vision, not only provide for the immediate needs of vulnerable children, they also allow families to be traced. Around a third of the homeless children attending World Vision centres have been reunited with their immediate or extended families. However, shelters cannot address the needs of all children. Those unable to find their families or who have been abandoned continue to live on the street and work in hazardous occupations. These 'separated children' are the most vulnerable; they often lack legal identity and endure sickness and exploitation. As part of an urban underclass, they would benefit from the development of responsible policy that avoids ad hoc measures, since these are costly in both monetary and developmental terms. "Typically these [measures] are the institutionalization of

street children... and imprisonment of delinquent children" (Blanc 1994).

According to Blanc, innovative approaches generally involve local actions as well as the identification of new agents of change. One approach to the problem of separated children is to involve the community in planning a local response. Agents of change include individuals and community networks. These can identify with the needs of the children and respond to them with compassion.

An alternative to institutional placements

Institutions comprise the largest single sector of formalised alternative care. Their role in emergency childcare has been covered extensively in the literature. In Cambodia, institutions are sometimes well-resourced facilities offering a higher level of service than is available to most families. The temptation for families to relinquish their children to an institution may therefore be considerable. However, institutions tend to lead to dependence and segregation, rather than integration in the community. In addition, the costs are extremely high. For example, in Uganda, the cost of institutional care was estimated to be 14 times higher than that of community-based care (UNICEF 2004).

There are also institutions working with disabled or HIV-positive children. Basic care standards are often low and donors difficult to attract. Institutionalisation is an inherent danger in long-term placements, with the result that those leaving institutional facilities are often young unskilled adults with little connection to the broader community. Children need the affection, attention

and social connections that are associated with family-based placements. Another advantage of community-based programmes is that they can reach and accommodate more (UNICEF EAPRO 2000).

Adoption no longer an option

Adoption within Cambodia has proved to be difficult due to a lack of an appropriate legal framework. Formal domestic adoption was stopped in between 1995 and 1999 due to a lack of clarity over inheritance rights and instances of trafficking/child labour. Although lacking the legal tools, the Cambodian government's Ministry of Social Affairs, Labour and Youth stated that aims from 1995 to 2000 included to systematically seek alternative ways of providing care and accommodation to orphans and abandoned children. In 1999 a revised law was passed, but lack of resource for its implementation reduced its effectiveness. Child exploitation of separated children continue to be a source of concern among the NGO community. Since 1998 international adoptions have been limited by Cambodia with periodic freezes prompted by examples of corruption. Restrictions have been introduced in receiving counties waiting for effective implementation of new adoption law and regulations to be put in place. Since 2001, inter-country adoption has also been suspended by an increasing number of 'receiving countries' including Australia, Canada, the USA and many European States. This is due to a lack of child protection measures, since some children were being bought from needy families. In addition, some orphanages were accepting 'processing fees' of several thousand dollars. Once the Cambodian government passes and implements new adoption legislation and procedures in line with the 1993 Hague Convention on Protection of Children and Co-operation, intercountry adoption may again become possible. The convention exists to provide standards so international adoption is in line with best interests of children. These would vary depending on the situation. No single solution will be appropriate in every case.

Developing foster care

Since 1994, World Vision has placed more than 500 children (aged between 3 and 16) in foster care in the community. The programme has been welcomed

by the Cambodian Government; it has given some structure to community-based care and involved government officers in aspects of planning and monitoring. The approach has been shared with other organisations and training materials available in the national language. These elements assist in developing good practices for care of separated children. Even children with special needs, such as physical and mental disabilities, have found new hope through being placed with supported foster families. The activity has been independently reviewed and has developed a manual of operations consistent with the United Nations declaration on social and legal principles relating to the protection and welfare of children, with special reference to foster placement and adoption and the Convention on the rights of the child. The project's operational manual has been translated and shared within and outside Cambodia.

Fostering requires planning, monitoring and clear legal protection for the children. All decisions need to take account of their views, best interests and protection. This includes maintaining the legal identity of the child. Fostering gives rise to questions of equity with children of the host family. Equal duties and equal access to education, healthcare and nutrition need to be ensured before a placement starts. Potential problems emerge when expectations are unclear and safeguards not fully developed. Foster parents have to attend training sessions, where they discuss child protection guidelines and basic healthcare for children. At its best, fostering can reconnect children to close and supportive relationships, make them part of a stable community and increase their life options. At its worst, it can lead to further abandonment and damage to the child and/or family.

Risks for children emerge if inadequate frameworks are in place to structure and monitor placements. Time and resources are needed for screening families, orientating parents, matching children with placements and addressing issues of support, sustainability and follow-up. Non-government groups can develop processes to assist in these areas, but legislative power, of course, remains the domain of government. Lack of adequate social policy linked to practice reduces capacity of good local practice being extended to other areas. Without



A child helps with the transport of rice from basic kitchens of an orphanage in Phnom Penh, Cambodia. Institutions comprise the largest single sector of formalised alternative care in Cambodia.

adequate social policy and practice, success in one area is unlikely to be replicated elsewhere. Foster care programmes need to build credibility, not only with government, but also with families and the community. Only then will they avoid being viewed or used as a dumping ground, or a source of income/cheap labour.

Philosophy of foster care

The Cambodian experience highlights the following aspects of foster care. It provides a supportive, culturally appropriate family environment, which is preferable to an institution since it is more likely to meet individual needs for long-term care. Substitute families and local communities in a development context are able to take good care of children when the natural family cannot. Foster care offers a stable base from which children can pursue education and vocational training and go on to independent living. Fostering increases the role of civil society in the care of homeless and

abandoned children. Children offer support to each other and, generally, between two and five children will be placed in each foster family. Siblings are kept together and children have the opportunity to build relationships with other children in the household as part of the matching process. The approach is cost effective when compared to operating a 24-hour residential centre. Working in tandem with a temporary shelter it offers children a supported transition from a facility to community and dependence to independence.

Cultural acceptance

Informal fostering arrangements within the extended family are common in Cambodia and these are almost always viewed as long-term arrangements. Short-term fostering is seldom practised and most Cambodians are prepared to care for the children 'as long as it takes' (Gourley 1996). Although there are only incomplete records of numbers of orphaned or abandoned children, the 1998 national health survey found that

approximately 2% of families were caring for one or more orphaned children (UNICEF EAPRO 2000).

In a best-case scenario, a child will be treated on an equal basis with the other children in the household. Sometimes, however, the child of poorer relatives may be treated differently. These children, typically girls, have to do more chores and may even be expected to work as servants. This type of arrangement is generally socially acceptable because the family is seen as helping a child who would otherwise have nothing. Visits and sharing experiences with other foster families can help to set more equitable roles and boundaries for foster children.

Current legislation and procedures

Issues regarding the legal status of foster parents versus that of natural parents need to be considered in the light of existing practice and gaps in current legislation. This includes gaps in birth registration, a major child protection concern in East Asia and the Pacific. A lack of legal identity is a critical factor that can lead to marginalisation and discrimination (UNICEF EAPRO 2000).

Governments can approve a change of status for a child and have the power to take responsibility away from parents. Government approval through legislation is also necessary for a child to be placed with an alternate family. Legal arrangements give all parties some degree of protection. It is also important to consider if it is in the best interests of the child to strengthen links with the natural family. Where this is not possible, World Vision has been permitted to apply for de facto recognition of adoption when the child has been fostered for over a year and both the child and family wish to proceed with this option. However, the current situation could be improved by a review of existing family law and recognition of the legal status of fostered and adopted children.

Recruitment of foster parents

Families have been recruited mainly through community networks such as Christian churches, Buddhist temples, Islamic mosques and cultural associations such as the Vietnamese Association. Networks can strengthen the placement through informal pre-screening, social support and monitoring. World Vision and government staff

visit prospective families to assess their suitability based on well-defined criteria, including not being too wealthy or having too many possessions. (This recognises children's temptation to steal). Neighbours, village leaders and local police are also contacted. Families that already have their own children are given priority. Personal motivation and evidence of involvement in service-related activities are important in pre-screening assessments.

Parents interviewed as part of a project monitoring exercise reported that they were motivated by a desire to help children. For example, "I believe we should help them [street children] because of the drastic national situation, which has caused so many children to be separated from their parents. Khmer should help Khmer." And "As I am a Christian, I believe everybody is God's child, therefore I am encouraged to help others, especially these poor children." Foster families are also attracted by support provided to the placement, which is planned to cover costs and give some benefit to the families own children. This includes financial support, school materials and vocational training opportunity.

Sustainability

Many foster parents express a desire to raise their foster children over the long term. However, the lack of adequate domestic adoption procedures remains an obstacle. This makes children uncertain about their future and highlights the need for both parties to be clear about the expected duration of the foster placement.

All parents interviewed in the evaluation said they think of the children as their own. For example, "I gave them my family name when enrolling them in school." And "Of course I think of them as my own... I intend to share my land with them after they are married."

During the first 12 months of the placement, World Vision staff explore with the family the option to move to income generation assistance rather than keeping the fixed monthly stipend (USD 20–30). Income generation schemes not only reduce demands on World Vision funds, they also have the potential to increase the family income by more than the monthly stipend.

Unsuccessful placements

Approximately 30% of placements have been discontinued after less than six months. Reasons for discontinuing placements include positive outcomes – a restored relationship with the natural family, for example – and negative ones, such as unequal expectations on the part of the children and the care providers, and conflict with other children in the household. The breakdown may be due to an unsuccessful matching process where trust and bonding are slow to develop.

On leaving foster care, some children return to the transitional centre, while others opt for independent living on the streets. For some children the placement ended because some change in the circumstances of their natural family now meant they could return. Older children who have a long history of living on the street may be particularly difficult to integrate into foster families, having become accustomed to the transience and freedom of the streets. Short-term group home living arrangements with a lead tenant have proved more suitable for such children, allowing them a more independent lifestyle while providing safe accommodation and intensive skills training until they reach the age of 18.

Conclusion

Experience from World Vision's foster care programme in Cambodia suggests that perceived cultural barriers to fostering may not be as significant as first thought. While negative attitudes need to be understood and guarded against, a more important factor requiring careful assessment is the personal motivation of potential foster parents. Foster care is an appropriate long-term option for orphaned and abandoned children. The evidence can be seen in the dedication of ordinary Cambodian families, who provide the kind of supportive family environment lacking in former street children's lives.

What have we learned?

- The perception of cultural barriers to fostering unrelated children is not well founded. It has not hindered the development of a small-scale supported foster care programme in Cambodia.
- Recruiting families through faith-based and community networks assists in screening and supporting placements.
- Screening potential foster families involves balancing formal and informal steps, through which information can be gathered that will ensure the best interests of the child.
- Children respond positively to being involved in a matching process with prospective families.
- Children respond positively to family placements, which ensure consistent contact with stable supportive adults.
- Foster children generally develop good relationships with the natural children, who are seen as helpful confidantes and advisors.
- Successful placements have included access to skills training for older children and education for younger ones.
- Many foster parents support formal adoption for foster children.
- For further information on World Vision's work with children see www.globalempowerment.org

References

- Blanc C.S. 1994. Urban children in distress: Global predicaments and innovative strategies. Florence, Italy: United Nations Children's Emergency Fund (UNICEF), International Child Development Centre (ICDC)
- Gourley S. 1996. Building homes – A first year evaluation of World Vision Cambodia's experience in foster care. Milton Keynes, UK: World Vision
- UNICEF. 2004. The framework for the protection, care and support of orphans and vulnerable children living in a world with HIV and AIDS. Rome, Italy: United Nations Children's Emergency Fund (UNICEF)
- UNICEF EAPRO. 2000. Children in need of special protection: A UNICEF perspective. Bangkok, Thailand: United Nations Children's Emergency Fund (UNICEF), East Asia Pacific Regional Office (EAPRO)
- Maria Rasa Benechtrict, speaking to the United Nations Committee on the Rights of the Child, Working group on the states role in preventing and regulating separation, from a paper entitled *The right to foster care*, Fundacion Emmanuel. 2005

The case of Guatemala *Fostering children* *prior to adoption*

Kelley McCreery Bunkers, Consultant for UNICEF Guatemala

The current situation in Guatemala regarding children placed in foster care prior to or awaiting intercountry adoption is two-pronged: those under the government-sponsored system and those under the notary system¹. There is a significant imbalance in who is providing temporary foster homes for children as well as who and what institutions are responsible for the high number of intercountry adoptions from Guatemala. To date, the government programme has done little in the area of temporary foster care, especially for children waiting for intercountry adoption. The private sector has dominated this area, leading to serious concerns being expressed by international child welfare organisations. Both the government programme and the private system are detailed below.

The government programme

Children cared for under the government-sponsored system are overseen by the Secretaría de Bienestar Social de la Presidencia de la República de Guatemala (Social Welfare Secretariat of the Presidency of the Republic of Guatemala). Specifically, the children are accounted for within the Substitute Home and Adoption Programme. To date, the foster care and adoption programme run under the auspices of the Guatemalan government has had a different focus to that of 'temporary foster care'. The majority of the 325 children involved in this programme remain with their biological parents or relatives and receive a small subsidy (approximately USD 40 per month). The focus has been on family preservation within high-risk families, rather than training of non-related persons to care for abandoned or at-risk children. There has been little or no monitoring and follow-up of cases. Since the families are considered high-risk, the subsidy is seen as a means of ensuring that the children are 'cared

for' and not put at higher risk or, in the worst-case scenario, abandoned.

A much smaller number of children in this programme are cared for by non-family members². There are two scenarios for these children: the first is that the family is in the process of adopting the child (nationally) and does not receive any sort of monetary subsidy. The second situation is that the family does receive a monetary subsidy, and has made a long-term commitment to caring for the child. The second group of families have not completed the adoption process due to the high cost associated with it, but do consider the child a permanent member of the family. Due to the limited focus of the programme – family preservation instead of foster care – the idea of permanency planning has also been limited, leaving many of the children in a precarious situation with no legal definition of their status.

To date, there has been just one documented case of a child cared for under the auspices of the Secretariat placed in intercountry adoption. According to the Substitute Home and Adoption Programme, a family from the USA approached the programme director requesting that they begin the adoption process. They preferred to go directly through the Secretariat, as they could not afford to pay the high cost of adopting via a US-based adoption agency. The family moved to Guatemala, completed the necessary documentation, and were referred an 8-month-old girl through the family courts. The judge granted the family legal authority to foster the child whilst the adoption process was completed. The adoption process took more than a year to complete. The family lived in Guatemala throughout the process and were only able to leave once the adoption process was completed and the child was given a US visa.

The Secretariat has recognised the importance of refocusing the objective and strategy of its current foster care programme and, jointly with the United Nations Children's Fund (UNICEF), has embarked on the design of a new 'vision' for the programme. This will involve designing a foster care programme that is focused on non-family caregivers and based on the principles of permanency planning. Additional efforts will include an evaluation of the current project, the design of an operations manual detailing standards of practice, minimum qualifications of caregivers, eligibility requirements for children and caregivers, and a training curriculum for caregivers. The end goal is to have the Secretariat overseeing trained and qualified persons to implement temporary foster care for abandoned or at-risk children while simultaneously working towards permanent family-based solutions.

The 'private' system

The private sector of adoption in Guatemala accounts for almost all intercountry adoption cases. Statistics show that in 2002, 2,931 intercountry adoptions occurred.³ Of those, the highest number of children (2,548) were adopted by US citizens, followed only at a very considerable distance by French (238), Spanish (27), Italian (20), Canadian (13), and German (10) nationals (PGN 2003). In 2004, total intercountry adoptions had risen to 3,834. Of that number, 3,264 children were adopted by US citizens. Currently, the USA is the only country still allowing adoptions from Guatemala⁴. In the private system of foster care and adoption, there are two possibilities for the child's temporary care before intercountry adoption: in a privately run orphanage or in foster care. This paper specifically focuses on private foster care⁵.

Given the official figures for numbers of children adopted by US citizens during the past year, it may be assumed that, at any one time, more than 1,200 children are in private foster care. Again, due to the lack of official monitoring of this system, the numbers are merely an estimate. The first step in the private adoption system begins when the pregnant woman is referred to a Guatemalan lawyer via a 'contact' or 'recruiter'. This typically occurs during the final months of pregnancy. The mother relinquishes all her parental rights at the time of the child's birth, or very soon thereafter. In the majority



The Guatemalan government has focused on family preservation rather than temporary foster care.

of cases, it is the biological mother who relinquishes parental rights. It is rare for a biological father to be part of a relinquishment case. Most birth mothers claim the identity of the birth father to be unknown, thereby hastening the relinquishment process.

Few Guatemalan lawyers will handle cases of abandonment, due to the lengthy and unwieldy process of having a child declared legally abandoned. Children abandoned in public places such as hospitals, churches, parks, etc., or those whose biological parents have lost parental rights due to abuse or neglect, become wards of the state and are placed in one of several orphanages that have been sanctioned by the Secretariat or in private orphanages run by religious organisations or private individuals. This situation has resulted in thousands of children being 'stuck' in orphanages. Without the opportunity to be placed with a permanent family during the unduly long period it can take for their abandonment to be pronounced by the court.

At the time of relinquishment (typically 1–5 days after birth), the child is placed with a foster parent, who has been recruited, supervised and financially reimbursed by the lawyer. The average monthly

stipend of a foster mother is 1,000 Guatemalan Quetzales per child, equivalent to approx. USD 133⁶. This money is paid by the lawyer and is presumably part of the payment received from the adoptive family. The average foster mother cares for two children in her home. No official statistics are available to describe the average foster mother, but it is assumed that she is usually from a working-class background. She is a grandmother, having raised children of her own, or a young stay-at-home mother. Most foster parents live in Guatemala City or the surrounding area to be handy for visits to the doctor, the family courts and the US Embassy. One can presuppose that the motivating factor for becoming a foster parent in this sense is the financial reward. Although the stipend is small, it does allow women to obtain an income while they stay at home. In Guatemala's precarious economic situation, this opportunity is appealing to many women and there is frequently a waiting list of interested persons.

The adoption process for a case of relinquishment typically takes 4–6 months, and this coincides with the length of time the child stays in a foster home. There are no official statistics regarding gender distribution of children in foster care for intercountry adoption, but unofficial observations have given estimates of 65% female and 35% male. The average age of children in foster care ranges from newborn to 2 years old. Again, unofficial statistics show that the average age of a child being placed in intercountry adoption is between 5 and 6 months.

No standards or requirements pertaining to the care of a child in foster care exist, and there are no stipulated minimum qualifications for foster parents. Since it is the Guatemalan lawyers who place the children with foster families, they alone are responsible for any requirements or training of the foster family. There have been occasions where the US-based adoption agency working in conjunction with the lawyer has requested, facilitated, or funded foster care training. In nearly all such cases, this is motivated by the ethical and professional standards or practices of the individual agencies, but unfortunately it is prioritised by only a few.

Summary

Because there are no standards or approval processes for adoption agencies working in Guatemala, any

individual or agency can establish a relationship with a Guatemalan lawyer and begin processing adoptions. These conditions have created a situation where very few agencies see the need for a more formalised process of recruitment of temporary foster carers. Also, due to the limited involvement of the Secretariat in foster care for intercountry adoption, there are few official statistics regarding the numbers of children in temporary foster care awaiting intercountry adoption. For the reasons mentioned here, no *official* documentation about specific standards of practice, qualifications or training exists.

It appears that there is a Guatemalan culture that is 'open' to the idea of fostering unrelated children, but significant improvements are needed to ensure that children are cared for by trained professionals who meet international standards. Furthermore, there is a pressing need to develop and implement evaluation and monitoring processes to ensure caregivers and the children in their care are doing well and that the children are placed in permanent families, in Guatemala or abroad.

Reference

Procuraduría de la Nación (PGN). 2003. Recuento de adopciones por países, año 2002. Guatemala

Notes

- 1 In this article, the notary system will henceforth be referred to as the private system.
- 2 The Secretariat estimates that 32 children are in this type of care situation although the number could not be verified at the time of this report.
- 3 Official statistics show that in 2002, there were only 62 national adoptions in Guatemala.
- 4 Because of serious concerns over the protection of children's rights in the private procedure in particular, in recent years governments of other receiving countries have one by one refused to allow their citizens to adopt children from Guatemala. For its part, the US has chosen to continue allowing such adoptions while introducing compulsory procedures such as DNA checks in an attempt to forestall rights violations in this sphere.
- 5 The information provided in this section is based on sampling of 75 private foster caregivers in an unofficial capacity by the author.
- 6 As an indication, this sum is less than the minimum monthly wage for an 8-hour working day.

South Africa The case for child-headed households

Carol Bower, Executive Director, Resources Aimed at the Prevention of Child Abuse and Neglect¹

Children in South Africa may have to live without parental care for a number of reasons, only one of which is the death of their parents. This is not a new phenomenon. South Africans have traditionally had fluid arrangements concerning the care and residence of their children, who move relatively easily among the extended family. Working parents, especially mothers, contribute when they can to the income of the household in which their children are living. Children whose parents have died or disappeared are similarly absorbed into the extended family. These patterns of childcare have been replicated and adapted in urban settings as more people have moved to towns and cities in search of employment.

More recently, the HIV pandemic has contributed increasingly to the number of children living without parental care. South Africans have continued to absorb such children into extended families and communities. However, their capacity to do this is being eroded by a dramatic increase in the number of maternal and double orphans and a reduction in the number of prime-age caregivers, such as aunts and uncles (Foster 2004). Rising unemployment has exacerbated the situation.

Attempts by Government to respond have focused on the foster care system. People are encouraged to foster vulnerable children, and are eligible for a Foster Care Grant (FCG) if they do so. This includes members of the extended family. However, the situation is becoming increasingly unrealistic. There are simply not enough people able or willing to become foster parents in the traditional sense and for members of the extended family, the process of applying to foster the child and receive the grant (through the High Court) is often prohibitively expensive.

Very often, extended family members are unable to take on the responsibility of additional children, or their circumstances exacerbate the vulnerability of the children. Administering the FCG system is also putting enormous strain on the formal child protection system. Placing such children in institutional care is not a viable option either. Apart from the lack of sufficient facilities, institutional care is often unnecessary. If the extended family can access financial and other support, they will provide a more cost-effective and suitable environment for the children, and the children will not require such placements.

Child-headed households

Increasingly, children are living in situations where there is no adult in the home. This may be because a grandmother has died, or because siblings have insisted on staying in their deceased parents' homestead. These are often temporary arrangements, and families usually absorb these children in time. However, children taking on the caretaking role may suffer significant negative consequences, such as having to drop out of school, seek employment to support their younger siblings, or get married in the hope that this will provide greater security.

According to Foster (2004), the presence of child-headed households does not necessarily mean that the extended family has abandoned these children entirely. Indeed, child-headed households often exist in close proximity to relatives who can provide material support. Evidence suggests that child-headed households might be a mechanism used by the extended family to deal with the situation (FHI 2005).

Research in eastern and southern Africa documents a high prevalence of community responses to the issue of child-headed households, most

often initiated by faith- and community-based organisations (Foster 2003). These initiatives enable families to provide care for children living without parents, and are likely to provide an essential mechanism for the growing numbers of such children in the coming years. Technical and financial support to these initiatives is critical.

In summary, the following is clear:

- Extended South African families have traditionally absorbed children who are living without parental care.
- The capacity to care for such children has been negatively affected by the high levels of HIV/AIDS-related deaths, and the deep poverty that currently characterises much of South African society.
- The formal child protection system has proved to be an expensive and inaccessible option for many and it is no longer able to afford protection to the children who need it most.
- Child-headed households can be viewed as a mechanism of extended family support, but the extended family needs some help if it is to meet these children's needs in full.

The protection of children without parental care

Since child-headed households are a growing reality, the rights of children living in this way must be protected and realised. In its preparations for a general discussion on children without parental care, the NGO Working Group on Children Without Parental Care has developed recommendations for international guidelines on the protection of such children. The basic principles of these guidelines should:

- ensure “the planned provision of a range of alternate care options, with priority being given to family- and community-based solutions”;
- secure “permanency for the children without undue delay... reunification with the family or in an alternative stable family setting”;
- ensure “protection from abuse, neglect and exploitation in all care settings”.

These guidelines should govern the measures implemented for children living in child-headed households, while additional standards may also be required specifically for this group. There are several levels of responsibilities for support: these include the State and the community.

The role of the State

Sloth-Nielson (2002) argues that the State has two clear duties, according to the South African Constitution:

1. to ensure that children in child-headed households are linked with some form of care;
2. to provide the resources necessary for survival and development.

Sloth-Nielson links these duties to s28 (1) (c) of the South African Constitution, and argues that the particularly vulnerable position of children in child-headed households places a primary responsibility on the State to provide immediate and direct assistance to them.

Various authors have detailed the kind of support that the State should provide. For instance, Giese et al (2003) note that home- and community-based care is far more successful when the delivering organisations are linked to State health services. Schneider and Russell (2000) suggested that both the governmental and non-governmental sector should be strengthened to facilitate access to home- and community-based care and support. In addition, Giese et al (2003) found that schools provided many instances of sustainable and appropriate support to children living without parents.

It is argued here that the role of the State should be looked at from two perspectives:

1. that of enhancing the capacity of civil society to respond appropriately to children living without parental care;
2. that of emphasising and resourcing the role of the Departments of Education and Social Development.

Community safety nets

The South African Government has adopted a national integrated plan for children and youth infected and affected by HIV. This endorses a community- and home-based care model based on a child rights approach (Sloth-Nielson 2002). The model is based on a foundation of multidisciplinary support, including volunteers, and it requires a level of professional and financial support.

The support already being given to children living without parental care includes material support,



One of many child-headed households in Mtubatua, South Africa. Child-headed households often exist in close proximity to relatives who can provide material support. But the extended family needs help if it is to meet these children's needs in full.

orphan registers, psychosocial support, food gardens and income generation activities (Giese et al 2003). Some of these are more sustainable than others. Orphan registers, for example, are seen as a mechanism for establishing the scale of the problem in any particular area, as well as a way to “create greater awareness [and] mobilise support” (Giese et al 2003). However, unless the existence of this kind of register can be directly linked to resources, it can prove too time-consuming and frustrating to be genuinely useful (Giese et al 2003).

Food gardens have been established in various areas to enhance food security. Although sometimes these initiatives have the support of the Department of Agriculture (in the form of land and seed donations), they have widely varying rates of success. Similarly, income-generating projects have varying rates of success, and the challenges related to limited markets and lack of capacity to develop new ones may make these projects unrealistic.

Material support, which currently includes access to social grants, providing food parcels, payment of school fees and purchasing of school uniforms and supplies, seems more viable. However, organisations providing support of this nature tend to have limited resources and may not be able to expand their activities in line with increasing need. It has also been noted that children living with sick adults are not targeted for support by organisations offering home- and community-based care – a shortcoming that requires attention (Giese et al 2003).

A significant body of research suggests that in situations where there are many vulnerable children, orphaned children may not necessarily be at any greater risk than others. Studies have shown that targeting these children can have seriously negative effects, including stigmatisation (Grainger et al 2001). In addition, orphaned children may come to be seen as a route to resources and support, making them vulnerable to exploitation.

Thus, material support to vulnerable children, including those living without parental care, needs to be made available through non-governmental and community-based organisations. The State has a responsibility to allocate adequate resources to this purpose, and to facilitate the development and sustainability of coordinated service provision. In addition, such support to home- and community-based care will strengthen the capacity of these organisations to identify the children most in need.

There is currently little emphasis on counselling and other forms of **psychosocial support** for children living with sick and dying adults, or those who have lost their parents. Children's descriptions of the situations and difficulties they face highlight the need for support of this kind. Gilborn et al (2001) found, for example, that disclosure was viewed positively and children reported that it helped them to understand the truth, to avoid HIV and to plan for the future.

It is argued that home- and community-based carers are ideally placed to address the need for psychosocial support. The ongoing contact between vulnerable children and home- and community-based carers is conducive to the gradual development of a relationship of trust, and the provision of support and counselling (Giese et al 2003).

Schools as nodes of support

A study undertaken by the Children's Institute at the University of Cape Town on behalf of the Department of Health (Giese et al 2003), made a series of health and social service recommendations to address the needs of vulnerable children, including those experiencing orphanhood. The study highlighted the important role being played by some schools and the potential to increase this role. This is despite the fact that there are currently a number of barriers blocking access to education, including the lack of income within households to pay for school fees, school uniforms and books, the long distances that need to be travelled (usually on foot) by school children, and discrimination faced by children who are infected or affected by HIV.

The school in the impoverished Majwayisa district in KwaZulu Natal is a good example. It provides food at weekends for children who would otherwise go hungry

and it has built accommodation to house some needy children (Giese et al 2003). In Cato Crest in KwaZulu Natal Province, the school has established links with St John's Ambulance Service, which provides a nurse once a week. It has also established a community garden project. Schools can therefore help greatly in identifying vulnerable children and providing nutrition, food security, life skills and training.

Health services

The Department of Health acknowledges that its role extends beyond that of providing clinical care, and that there is a need to provide support to home- and community-based childcare and to establish sustainable partnerships with others delivering community services. Giese et al (2003) note a range of responsibilities that should be taken on by the health sector:

- the care of HIV-positive children at primary health care facilities;
- programmes to address hunger and malnutrition
- counselling and support services related to HIV/AIDS testing and to ongoing emotional support;
- hospital and palliative care for sick children and adults;
- support for children in schools through outreach services;
- community health workers.

Bringing it all together

It is clear that, while the challenges facing children living without parents are great, the needs of these children can be met without resorting to institutionalisation. However, if their needs are to be addressed, and if the rights of these children are to be protected and realised, then current examples of success must be expanded and resourced adequately to ensure their sustainability.

We argue that a range of options for children living without parents must be available. These should include formal alternate care situations, such as institutionalisation and kinship care, where these are appropriate. However, they should *not* exclude the viability of child-headed households. The recognition of this option, however, must be accompanied by a range of support mechanisms. These must, critically, involve strong partnerships between the State and civil society.

The home- and community-based care model has been shown to be highly appropriate *if it is* capacitated in the following ways:

- strong links to the Department of Health;
- strong links to the Department of Education;
- coordinated and integrated support from these two departments;
- resources and training for those implementing programmes;
- recognition of the need to provide holistic support focused on addressing basic needs to food, shelter, healthcare, emotional support and education.

References

- FHI. 2005. Family Health International: www.ovcsupport.net/sw3256.asp?usepf=true
- FHI. 2005. Family Health International: www.ovcsupport.net/sw3256.asp?usepf=true
- Foster G. 2003. Preliminary report: Documentation study of the response by faith-based organizations to orphans and vulnerable children. World Conference of Religions for Peace/United Nations Children's Fund. Accessed at <http://sara.aed.org/ovc-tc/documents//pubs/Faith-Based%20study.pdf>
- Foster, G. 2004. Safety nets for children affected by HIV/AIDS in Southern Africa. In Pharoah, R (ed): *A generation at risk? HIV/AIDS, vulnerable children and security in Southern Africa*. ISS Monograph no 9, December 2004. www.iss.co.za/pubs/Monographs/No109/Chap4.htm
- Giese S., Meintjies H., Croke R. and Chamberlain R. 2003. Health and social services to address the needs of orphans and other vulnerable children in the context of HIV/AIDS. Children's Institute, University of Cape Town: Cape Town, South Africa.
- Gilborn L., Nyonyintono R., Kabumbuli R. and Jagwe-Wadda G. 2001. Making a difference for children affected by AIDS: Baseline findings from operations research in Uganda. The Population Council. Accessed at www.eldis.org/static/DOC5538.htm
- Grainger C., Webb D. and Elliot L. 2001. Children affected by AIDS: Rights and responsibilities in the developing world. UK: Save the Children
- Schneider H. and Russell M. 2000. Models of community-based HIV/AIDS care and support in South Africa. *The South African Journal of HIV Medicine*, 1(1): 14–17.
- Sloth-Nielson J. 2002. Too little, too late? *ESR Review*, 3(1). Community Law Centre

Note

- 1 RAPCAN is a child rights NGO based in Cape Town, South Africa.

Home and Community Care Project, Thailand

Taking children's views into account

The Home and Community Care Project caters for 60 children aged 5–15 years from five villages around Chiangmai in northern Thailand. Half the children have lost both parents and half have lost one parent to AIDS. All the children are cared for by the remaining parent or grandparents.

The project aims to strengthen the physical, mental and socio-emotional wellbeing of the children by developing their capacity, confidence and independence. This is being achieved through training and other activities, and through developing a support network. The beneficiaries of the project are principally the children and their caretakers, while the children's siblings, their classmates and teachers and other groups in their community can also gain.

Fieldworkers and caretakers play a key role in the project. Fieldworkers are trained in the skills, knowledge and attitudes required to support both children and their caretakers. Caretakers are trained in child development, child psychology and understanding, and how to deal with the prejudices in society against AIDS orphans and their families. The project also educates teachers in village schools about HIV and AIDS. It is currently establishing a support group to ensure project continuity and to identify persons willing to take responsibility in emergency cases. This role involves listening to or discussing problems faced by the children.

Children are systematically asked to give their views on activities and trainings that have been conducted. They are asked whether they liked the activity or not and why, but also if they learned anything and if they found it useful or interesting. The children are split into six groups of 10 and some groups keep a diary to record their personal impressions and

experiences. All the children contribute stories for a newsletter, an activity that improves their writing skills at the same time as allowing them to express their feelings.

Children and caretakers also have the chance to suggest the kinds of activities they prefer. For example, when project staff wanted to see how family relationships could be improved, they allowed children and caretakers to choose any programme or set of activities, provided these would contribute to improved relationships. Children and caretakers started to work together on growing mushrooms, raising catfish and frogs and baking bread. The choice of activity and how to carry it out was left entirely to the children and caretakers, with the fieldworkers acting mainly as coaches and advisors. During the activities, the children and caretakers had to consult each other all the time, discussing and deciding what to do. Frequent mutual consultation, discussion and agreement were the 'tools' that helped achieve the goal.

Children's and caretakers' voices influence many aspects of the project. The fieldworkers assess the need for counselling and training through biweekly gatherings. These raise difficult and sometimes painful issues. For example, children may complain that their caretaker doesn't understand what they're taking about, which is often due to the large (up to 60-year) age gap between them. Grandparents may also harbour anger that the children's father has brought AIDS into the family.

Through the project activities and the care and commitment of project staff, it is hoped that the children and caretakers will develop an adequate level of self-confidence. This, together with continuous help and support from friends, support groups and fieldworkers, will help the children feel



Children's and caretakers' voices influence many aspects of the project. Children are systematically asked to give their views on activities and training sessions.

mentally and emotionally strong enough to cope with future problems and challenges in their lives.

While the Home and Community Care Project is primarily oriented at the 60 children currently in the programme, it is working to take the concept to the municipal and regional level. Fieldworkers and children have visited junior high schools in Chiangmai to talk about the project. Contact with teachers allowed project staff to explain the problems associated with HIV/AIDS. They were also able to show how the project's model of care and assistance could be applied in other situations where children have no parental care.

A de-institutionalisation process

Children born out of wedlock in Tunisia

Maria Luisa Fornara, Programme Officer, and Hela Skhiri, Child Protection Officer, UNICEF Tunisia

Institutional and legal background

Tunisia has devoted a good deal of time and effort to improving the legal status and wellbeing of children born out of wedlock. Since its independence in 1956, Tunisia has promulgated different laws to address the issues surrounding out-of-wedlock children, which include adoption, maternal identity, mothers' parental authority and identification of fathers through DNA testing. These laws have legitimised out-of-wedlock children as citizens under the protection of the State. However, in a country where having a child out of wedlock is not culturally accepted, the spirit in which these laws are applied might not always serve the best interests of the child.

The official number of children born out of wedlock in Tunisia is around 1000 per year (although the figure may be doubled in reality). Lengthy paternity recognition procedures, particularly after adoption of Law 75-1998¹ (further modified in 2003), have led to an increase in the number of children institutionalised on a temporary basis.

The National Institute for Child Protection (NICP), created in 1973 under the Ministry of Social Affairs, is the only large institution housing children aged less than 6 years. It has responsibility for monitoring children in other smaller institutions, such as life units², as well as children placed in foster families. Around 400 children are housed in NICP every year. Of these, around 70 are found abandoned in the street and are eligible for immediate adoption. The remaining children (whose mothers can be identified) must wait for their status to be determined (including paternal identification) before the final decision can be made by one or both parents to take back the child or to relinquish him/her for adoption.

In 2004, of the children housed in NICP and life units, 220 were placed in foster families, 68 reintegrated in their birth families, 248 were adopted³ and 28 placed in *kefala*⁴. A child spends an average of 290 days in NICP and/or 170 days in a foster family before he/she can be formally adopted. For disabled children, long-term family placement (for several years) is the goal. Around 110 disabled children are currently placed in 95 foster families, with 85 remaining in NICP. In addition, it is estimated that around 50 babies per year are kept in hospitals after delivery (with a limited legal term of three months) waiting to be placed in an institution or a family.

A few hundred children each year⁵ go through direct adoption with a judicial decision but without passing through the official channels of NICP, which normally supervises and selects adoptive families.

A political decision

In 2002 and 2003, several governmental cabinet meetings were dedicated to improving conditions for children without primary caregivers. The main focus of the meetings was on strategies promoting family placement as an alternative to institutionalisation. The decisions taken by the Cabinet represent a significant step towards the objective of granting every child a family environment. Decisions were taken to reduce the time involved in establishing a child's administrative status and therefore the time he/she spends in an institution. It was also decided to promote adoption or family placement instead of institutionalisation, and to increase the level of foster care reimbursement by more than 50%. In addition, single mothers would be encouraged to keep their babies through offering support via civic society organisations (e.g., financial aid, vocational

training). A new law was adopted in July 2003 to further reduce discrimination towards children born out of wedlock. This law allows provision of a full identity in all official documents (including a fictitious family name) to children of unknown parents who are not adopted.

Towards de-institutionalisation: A reality?

At any given time, between 220 and 250 children are housed at NICP and cared for by 107 nurses. Routine activities such as diaper changes, bottle feeding and preparing meals do not allow time for 'motherly' care of the baby. Although NICP has improved conditions for young children in recent years, their emotional and psychosocial needs cannot be met in an institutional environment. This is particularly true if they stay longer than six months, when the risk of physical or psychological regression is high. Yet in 2004, 54.4% of children in NICP stayed there for more than six months and 20% stayed over one year. It should also be noted that 76% of children in NICP are more than 6 months old and, of these, 40% are more than 1 year old.

There is obviously a need to find alternative childcare solutions for these children. At the prevention level, more support should be given to single mothers when they contact the health services during their pregnancy or when they deliver. The procedures for the child's full identity quest should be further accelerated in order to reduce the length of stay in the institution and allow the child to be adopted more quickly. More efforts should be devoted to working with the child's parents to help them decide whether to keep the baby or give him/her up for adoption or *kefala*. To meet these objectives, there is a need for better coordination between different actors from different line ministries and civic society organisations.

The child remains a holistic entity who needs harmonious development within a family. The most appropriate alternative to institutionalisation, and one that could provide immediate care while a child is awaiting a more permanent solution, is foster care. Families willing to offer affection to the foster child and who can stimulate his/her physical and emotional development are very much in need.

It is important to develop a pool of foster families whose motivation goes beyond the remuneration provided by the state. The sensitisation and advocacy required to do this remains a challenge for the NICP staff. Each foster family needs the right balance between motivation and remuneration. Families currently receive around USD 83 per child per month, plus in-kind donations. In comparison, the minimum monthly wage is USD 167.

Establishing selection criteria for foster families, preparing them to host the child, and the monitoring, supervision and support to the foster child and family constitute substantial and demanding tasks for NICP. NICP psychologists, educators and social workers are trained to help them work effectively with foster families and children. However, they often struggle to place children with disabilities or chronic diseases. To avoid the psychological damage of institutionalisation, the only solution for these children seems to be long-term placement in foster families.

Because of the numbers involved, NICP has limited capacity to supervise foster placements. Furthermore, its outreach capacity is exclusively within the city of Tunis. There is an urgent need to decentralise family placement and reach out to more foster families. More institutions or associations should be identified to arrange family placement under the overall supervision of NICP. In addition, civic society needs become more involved to enhance community commitment and response. This involvement should be secured through partnerships at local level between authorities, civic society and foster families.

The reintegration of the child in its original family

Recent developments, including political decisions, the law of 2003 and the ongoing debate concerning children born out of wedlock, have broached taboos and led to better acceptance of single motherhood. There is still much to do, but new initiatives, such as residences or day-care centres for single mothers (e.g., the Amal Project in Tunis and Voix de l'enfant in Nabeul) are now providing psychological, legal and social support.

Life units set up in different regions and decentralisation of family placement activities will



The Tunisian government has taken decisions to reduce the time a child spends in an institution.

also improve the situation for a child's reintegration in his/her original family, since they will make it easier for mothers to visit their babies and maintain emotional ties.

Social actors will need to reinforce their mediation work with the parents of single mothers and with the fathers for a possible reconciliation. Experience has demonstrated the positive impact of the reintegration of the mother and child within the extended family.

Conclusion

De-institutionalisation is a huge and complex issue; it not only involves children born out of wedlock but also children who are abused or neglected and children in trouble with the law. To face this myriad of challenges mechanisms and competencies for working more closely with the original, foster and adoptive families are needed. Over the past four years, more than 1000 social workers have been trained and all main actors are

now convinced that the child is far better off in a family environment than in an institution. The de-institutionalisation process within NIGP pertaining to children born out of wedlock needs targeted and time-framed objectives. As such it could become a pilot project, and the experiences gained could greatly enhance de-institutionalisation efforts elsewhere.

Notes

- 1 This allows a patronymic name to be given to abandoned children or those of single mothers, gives the child the right to an identity and permits identification of the father through DNA testing.
- 2 Six life units have been created around the country. Each houses around 12 children at any given time (40 children throughout the year).
- 3 Tunisia is the first and only Arab Muslim country to have legalised adoption (in 1958).
- 4 *Kefala* (or Islamic adoption) entails tutoring of the child by a given family until the age of 18 without any rights on the adopting family's name and inheritance.
- 5 No exact figures are available.

Further reading

Websites

General Day of Discussion

UN Committee on the Rights of the Child, 16 September 2005. Information about the session and links to documents submitted for the General Day of Discussion can be found at

www.crin.org/violence/search/closeup.asp?infoID=6220

International Foster Care Organisation (IFCO)

IFCO is an international network dedicated to the promotion and support of family foster care all over the world. IFCO promotes family-based solutions for out-of-home children based on the CRC by enabling the exchange of information among persons and organisations of different nations; promoting foster care as an important type of family-based care; consultation; networking; publications; assistance; organising international conferences and training seminars.

www.ifco.info

International Social Service (ISS)

ISS, an international NGO dedicated to helping individuals and families with personal or social problems resulting from migration and international movement, has established an International Reference Centre for the Rights of Children Deprived of their Family – ISS/IRC. This programme seeks to secure better respect for the best interests and rights of children deprived of their family or at risk of being so, and for children needing adoption or adopted already.

www.iss-ssi.org

The international child and youth care network

This network supports the child and youth care work field worldwide. It is one of many mechanisms that encourages and welcomes child participation in an area that directly affects their lives.

www.cyc-net.org

EUROCHIPS

www.eurochips.org

Publications

Improving protection for children without parental care. Kinship care: An issue for international standards

International Social Service & UNICEF, August 2004

This paper is one of a series that deal in greater depth with selected complex issues broached in the Working Paper prepared by International Social Service and UNICEF on "Improving protection for children in out-of-home care: a call for international standards". It focuses on problems that would need to be taken into account when devising international standards regarding the kinship care of children.

www.unicef.org/videoaudio/PDFs/kinship_note.pdf

Facing the crisis: Supporting children through positive care options

David Tolfree, Save the Children UK, 2005

Due to the impact of HIV/AIDS, poverty, conflict, natural disasters, exploitation, abuse and family breakdown, an increasing number of children are at risk of separation from their families or need

alternative care. There is a growing consensus that, wherever possible, these children should be supported as a 'first resort' in the context of their families or extended families with residential care almost always seen as a 'last resort'. This report, the first in a series, looks at the main issues facing policy-makers and all those working in this field. It emphasises the need for practice and policy responses that reinforce family- and community-based care and support options.

<www.savethechildren.org.uk/publication>

The promise of a future

Strengthening family and community care for orphans and vulnerable children in sub-Saharan Africa
The Firelight Foundation, 2005

In August 2005, Firelight initiated an advocacy tool that will help inform the public about the importance of investing in community-based responses that strengthen the safety net of family care.

<www.firelightfoundation.org/whats-IP-ES.htm>

Factsheet: Children without primary caregivers and in institutions

UNICEF

<www.unicef.org/protection/files/children_without_caregivers.pdf>

The principle of subsidiarity and the extended family as caregivers

Monthly Review 3/2005, ISS/IRC, March 2005

<www.iss-ssi.org/Resource_Centre/Tronc_DI/documents/Edito.2005.3.eng.pdf>

A last resort: The growing concern about children in residential care

International Save the Children Alliance

This paper sets out the International Save the Children Alliance's position on the residential

care of children and highlights concerns about its growing use. Its aim is to draw attention to an area that has largely been ignored as a rights issue for international attention and action.

<www.savethechildren.net/alliance/resources/publications.html>

Babies and small children residing in prisons

Marlene Alejos, Quaker United Nations Office, March 2005

This paper raises awareness about the situation of babies and young children in prison with their mothers, and to encourage greater consideration of the problems and dilemmas raised. This is not a situation in which there are obvious right and wrong answers. But what are the rights of the child in such a situation, and how can they best be protected? In the course of her research, Marlene Alejos has identified some examples of strategies and good practices.

<www.quno.org/geneva/pdf/200503Babies-Small-Children-in-Prisons-English.pdf>

Children in institutions: the beginning of the end?

Innocenti Insight No. 8, UNICEF Innocenti Research Centre, Florence, 2003

This Innocenti Insight examines efforts to prevent the institutionalisation of children in Argentina, Chile, Uruguay, Italy and Spain, focusing on both public and private initiatives, as well as local and national policies. The study highlights the fact that policies to discourage institutionalisation are not enough. The right climate is needed to create alternatives, including raising public awareness.

<www.unicef-icdc.org/publications>

How poverty separates parents and children: A challenge to human rights

International Movement ATD Fourth World, 2004

In the face of poverty, parents can show unstinting resilience and courage on behalf

of their children, making enormous efforts to safeguard relationships and keep the family together. This study shows what ATD Fourth World has learnt about the fight against poverty from its grassroots action with families, and from that of other NGOs, in the Philippines, Burkina Faso, Haiti, Guatemala, the UK and the USA.

<www.atd-quartmonde.org>

Valuing children, valuing parents. Focus on family in the fight against child poverty in Europe: A European discussion paper

International Movement ATD Fourth World, July 2004

Valuing children, valuing parents provides a review of the broad issues of child poverty, examining in particular the family as a resource in the eradication of poverty, given the provision of effective and appropriate support. It takes into account evidence from a wide range of research and brings together elements from 10 European countries.

<www.atd-quartmonde.org>

Moving from residential institutions to community-based social services in Central and Eastern Europe and the Former Soviet Union

David Tobis, World Bank, Washington DC, 2000

Institutions house almost 1% of the region's children. Poor, neglected, or disabled children live in institutions that stunt their physical, emotional, and intellectual development. Children with disabilities are segregated from society in grim facilities most of them will never leave. This study contends that few, if any, of them need to be confined to institutions. It reviews the use of residential institutions throughout the region, focusing on five countries—Albania, Armenia, Latvia, Lithuania, and Romania—where the World Bank is helping develop community-based social services to reduce the reliance on residential institutions.

<<http://wbln0018.worldbank.org/eca/eca.nsf/0/5231989d8868de98852569640071dfa2?OpenDocument>>

Changing minds, policies and lives: Improving protection of children in Eastern Europe and Central Asia. Redirecting resources to community-based services

Innocenti Publications, UNICEF Innocenti Research Centre, Florence, 2003

After more than a decade of coping with transition challenges in Eastern Europe and Central Asia, the need for the reform of family and child welfare systems has been widely acknowledged. Every year a large number of children are still at risk of being separated from their families and being placed in institutional care. Through the *Changing minds, policies and lives* series, UNICEF and the World Bank have teamed up in an effort to increase the understanding of the essential challenges of the system changes, and to propose strategies to advance the reform of child and family services.

<www.unicef-icdc.org/publications/>

Community based care for separated children

David K. Tolfree, Save the Children Sweden, 2003

All over the world, children are separated from their parents, caretakers and communities due to – among other things – armed conflict, natural disasters, pandemics and various forms of exploitation and abuse. The prevailing response to those who cannot return to their family and/or place of origin by authorities and aid agencies has been some kind of residential care. In this report, the shortcomings of this model are discussed in relation to community-based care approaches, e.g., (extended) family and foster home solutions for separated children. It identifies a series of critical issues for those who wish to promote and protect the best interest of the separated child.

<www.rb.se/eng>

A family is for a lifetime

John Williamson, The Synergy Project for USAID (Office of HIV/AIDS), Washington DC, March 2004

This very useful report is in two parts: a discussion paper and an annotated bibliography. Although it is mainly intended to tackle the issue of children affected by HIV/AIDS, its considerations have far wider application – to all children in need of alternative care.

The discussion paper is based on a review of approximately 80 documents related to the provision of care for children lacking family care in countries most affected by HIV/AIDS. Although the review is not exhaustive, it includes the most significant and relevant literature concerning this group of children. The materials reviewed have been annotated in the second part of this document. The documents reviewed focus primarily on the need for care addressed by a community-based approach. These documents also include suggestions for transitioning children out of institutionalised care and into community-based care.

http://hivaidsclearinghouse.unesco.org/ev_en.php?ID=3585_201&ID2=DO_TOPIC

Achieving permanence for children in the child welfare system: Pioneering possibilities amidst daunting challenges

Lorrie L. Lutz, The National Resource Center for Foster Care and Permanency Planning, Hunter College School of Social Work, New York, November 2003

It has taken the child welfare system in the USA over three decades to fully comprehend and then implement key policy and practice reforms that emphasise permanence as a fundamental requirement for the healthy development of a child. This report considers the background and history of US child welfare services' commitment to permanency and how this history is impacting our success in achieving permanent and stable placements.

www.hunter.cuny.edu/socwork/nrcfcpp

Raising the Standards: Quality childcare provision in east and central Africa

Save the Children UK, 2005

This document sets out, explains and justifies a series of standards whose implementation would enable children in non-family care settings to gain a more positive experience of childhood and be supported in building resiliency as a foundation for their future lives as contributing individuals in their society.

www.savethechildren.org.uk

Mapping the number and characteristics of children under three in institutions across Europe at risk of harm

European Commission Daphne Programme (Directorate-General Justice and Home Affairs) in collaboration with WHO Regional Office for Europe & the University of Birmingham, UK, February 2005

The project surveyed 33 countries throughout Europe and identified the number and characteristics of children under 3 placed in residential care institutions without their parents for more than three months in 2003. A more in-depth investigation into the quality of institutional care was conducted in Denmark, France, Greece, Hungary, Poland, Romania, Slovakia, Turkey and the UK. The project also identified the extent and cost of alternative services for young children in need of care and protection and the use of national and intercountry adoption as a response to family poverty or the child being abused, neglected or abandoned. This is the first attempt at European level to measure and compare the reasons, number and characteristics of children subject to early institutionalisation.

www.daphne-toolkit.org/prjFiche.asp?prj=2002017%20&lang=FR

News from the Foundation

Oscar van Leer Award 2005

The Oscar van Leer Award, instituted in 1994 and presented every two years, honours programmes for excellence in enabling parents and communities to help young children realise their full potential. The Oscar van Leer Award for 2005 has been awarded to the Kenya Orphans Rural Development Programme (KORDP) for its Community Support to AIDS Orphans project.

KORDP has been a partner of the foundation since 2001. Working in areas of Kenya's Western province worst affected by the HIV/AIDS pandemic, it strengthens the ability of families and communities to care for orphans and vulnerable children. KORDP helps rural communities to set up early childhood development daycare centres. These provide young children with nutritious meals, opportunities for social and psychological development, and pre-school learning without which many would not go on to primary school.

The foundation has published a 54-page book, describing in text and photos how KORDP's community-based work, supported by the foundation, improves the lives of HIV/AIDS orphans and vulnerable children in rural communities in western Kenya. The foundation hopes that the award will contribute to raising the profile of young children on the HIV/AIDS agenda, particularly with regard to the XVI International AIDS Conference in Toronto in August 2006.

Recent publication

Working Paper 38. *Globalisation and privatisation: The impact on childcare policy and practice.* By Michel Vandenbroeck.

This paper concentrates on the impact of globalisation on childcare since the late 1970s, particularly in the last two decades. It looks at how our views about children, parents and public services have changed as a result. In particular, the paper examines the case in Belgium, where the consequences of globalisation are also analysed in terms of quality and accessibility of services and the shifting power relations between the state, childcare

providers, parents and experts in the field of early childhood education.

Forthcoming

A guide to General Comment 7: 'Implementing child rights in early childhood'.

Co-published by the Foundation in collaboration with United Nations Committee on the Rights of the Child and United Nations Children's Fund.

To be published in March 2006

The United Nations Convention on the Rights of the Child is applicable with regard to all persons under the age of 18. But the Committee on the Rights of the Child has noted regularly that information on the implementation of the Convention with respect to children before the age of regular schooling is often very limited.

The Committee therefore decided to devote its Day of General Discussion 2004 to the topic 'Implementing Child Rights in Early Childhood'. The purpose of the Day of Discussion was to generate more awareness on this topic and to adopt recommendations that would be based on the results of the event and would also underscore the full entitlement of young children to the rights enshrined in the Convention.

This monograph describes the background of the Day of General Discussion and contains, in extracted form, the papers submitted to the Committee at that time, along with other relevant material. It also presents the General Comment that was the outcome. Each section includes an introduction with additional information on the process.

We hope that this book will aid child's rights advocates at the local level, human rights activists, particularly those with no special legal knowledge, and the general reader interested in child rights, human rights and the United Nations, including university students and researchers in law, social work, international relations, or other, associated areas.

Thanks for your reply to the survey

In June 2005, the Publishing Team of the Bernard van Leer Foundation sent out a survey to readers to update our address database. Many readers responded, helping us to improve the distribution of our publications and to add value to the work we do. Thank you!

Bernard van Leer Foundation

Investing in the development of young children

The Bernard van Leer Foundation is a private foundation based in The Netherlands. It operates internationally.

The Foundation aims to enhance opportunities for children 0–8 years, growing up in circumstances of social and economic disadvantage, with the objective of developing their potential to the greatest extent possible. The Foundation concentrates on children 0–8 years because research findings have demonstrated that interventions in the early years of childhood are most effective in yielding lasting benefits to children and society.

The Foundation accomplishes its objectives through two interconnected strategies:

- a grant-making programme in selected countries aimed at developing culturally and contextually appropriate approaches to early childhood care and development; and

- the sharing of knowledge and know-how in the domain of early childhood development that primarily draws on the experiences generated by the projects that the Foundation supports, with the aim of informing and influencing policy and practice.

The Foundation currently supports a total of approximately 150 projects in 40 selected countries worldwide, both developing and industrialised. Projects are implemented by project partner organisations that may be governmental or non-governmental. The lessons learned and the knowledge and know-how in the domain of early childhood development which are generated through these projects are shared through a publications programme.

The Bernard van Leer Foundation was established in 1949. Its income is derived from the bequest of Bernard van Leer, a Dutch industrialist and philanthropist who lived from 1883 to 1958.

Bernard van Leer  Foundation

PO Box 82334, 2508 EH The Hague, The Netherlands tel: +31 (0)70 331 2200, fax: +31 (0)70 350 2373

email: registry@bvleerf.nl, internet: www.bernardvanleer.org