



Lumos' contribution to the call for submissions for the UN Committee on the Rights of the Child's Day of General Discussion 2021 on Children's Rights and Alternative Care

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Introduction

Since 'children without parental care' was last debated at a Day of General Discussion of the Committee on the Rights of the Child (DGD) in 2005, there have been significant developments in the international policy framework around alternative care for children and reforming care systems, notably including the development of the Guidelines for the Alternative Care of Children in 2009 and the 2019 UN General Assembly Resolution on the Rights of the Child focused on children without parental care.

However, despite these promising developments at international policy level, national implementation remains a challenge, and children are still separated from families due to lack of services and support in the community. Care reform is a long-term process, requiring sustained political and financial commitment, and while many countries do have the political will, they may lack the know-how and practical guidance to deliver on sustainable care reform. Even where resources are not lacking, spending does not always favour children's best interests or protect their rights. Although institutionalisation is widely acknowledged to be harmful to children, governments and other donors are still funding the establishment and maintenance of institutions across the world instead of interventions and programmes that support families and family-based care.

Furthermore, some groups of children are still being left behind. Many children who live outside households, including in institutional care, are not counted in national data-collection processes, meaning that their needs are not fully understood and accounted for when programmes are developed. In addition, those whose needs are regarded as 'too complex' are often the last to benefit from countries' efforts to move away from outdated systems centred around institutions, towards family and community-based services.

Globally, the situation is further complicated by the ongoing Coronavirus pandemic, which continues to put increased pressure on child protection and welfare systems. Children and families at risk of separation have been among those most gravely impacted by the pandemic itself and the measures in place to respond to it. Online learning was a struggle for many children, especially those with disabilities and special educational needs or without reliable internet access and devices. Care leavers missed out on social housing and food packages. Violence and abuse increased in both families and institutions. Many residential institutions went into lockdown, leaving children and young people cut off from contact with families and communities. In other cases, children were sent back to their families without proper preparation, safeguarding or support. It is more crucial than ever for governments to invest in strong systems that support families as part of the ongoing response to the Covid-19 pandemic. It is also important that all countries learn from their experiences in the pandemic to build back better, and that the long-term response continues to drive progress in care reform and investment in family and community-based services.

Role for the Committee on the Rights of the Child to drive progress around children's rights and alternative care

To deliver on implementing the policies and recommendations agreed at international level, national governments need concrete recommendations and guidance. These should offer clarity on how to prevent family separation, deliver community and family-based care and on care reform in different contexts. They should also highlight common pitfalls and misinterpretations to avoid.

In addition, donors and other major stakeholders involved in children's care, including INGOs and intergovernmental organisations, need guidance around the kinds of interventions it is more appropriate to support; red flags to look out for; and how best to use their funding and influence to support children in families, prevent separation and support appropriate alternative care.

The Committee on the Rights of the Child is ideally placed to offer this clarity, recommendations, and guidance to States and other key stakeholders. Below we have outlined our key recommendations for the Committee to help drive progress and ensure children's rights are protected when they are in or at risk of entering alternative care.

1. Emphasise the importance of prevention and provide guidance on priority measures to prevent family-child separation and reduce the need for alternative care

The Convention on the Rights of the Child recognises how important it is for children to grow up in a family environment, and that it is the responsibility of the State to provide adequate support to facilitate this. However, large numbers of children are still unnecessarily being separated from their families and entering alternative care for reasons including poverty, discrimination, marginalisation, a lack of accessible family support services in the community, lack of access to education and as a result of trafficking.

When the right support is provided within the community, family separation can often be prevented, giving children the opportunity to remain with their birth families. It also means that children in foster care and small group homes can access the support they need locally.

The Committee should therefore continue to take every opportunity to urge States to prioritise investing in a strong child protection and welfare system, including a comprehensive package of both universal services for all families and targeted support for families at risk, to help increase family resilience and prevent family separation.

Universal services include inclusive education and early childhood services, accessible community healthcare services, and health and social care staff that are adequately resourced and trained to support all families. Specialised services to relieve pressure on at-risk families include respite care, material and financial support, targeted school support and community-based therapy and rehabilitation services. Support should be child-centred, with different service providers working together to provide well-co-ordinated packages of care.

Together, these services should enable children and their families to participate in the community on an equal basis with others. They must work for ***all*** children, and must not leave behind those groups who have more complex needs or have been the subject of discrimination, such as those with disabilities, or those from ethnic minorities and indigenous communities.

Strong, well-coordinated and well-resourced child protection systems help to provide the support needed in the right places to prevent family separation, and also to avoid the dangers linked to a

fragmented system and lack of regulation or monitoring, which can allow children to fall through the cracks and come to harm. They can help to prevent 'orphanage trafficking,' which is when children are recruited to orphanages as a means of raising funds from donors and volunteers. Other measures States can take to end this harmful practice include prohibiting organisations from facilitating orphanage tourism abroad and strengthening the rule of law to prosecute traffickers who exploit children.

The Committee can utilise its public platform to raise awareness of the relationship between institutions and trafficking, as well as continuing to **push for States to develop effectively regulated and empowered child protection systems, with strong systems for oversight and monitoring, as well as regulation of donor activities.**

2. Encourage States to invest in high-quality alternative care that protects children's rights

Alternative care should only be considered when it is not in the best interest for a child to stay in their family, even when all necessary support is in place. However, unfortunately, not all family separation can be fully prevented.

In order to deliver the best care for the children that need it, States need to receive clear and coherent guidance on what constitutes high quality, family and community-based care for children that meets their needs and protects their rights.

For the majority of children, alternative care should mean family-based care, such as kinship care, foster care or adoption. For a small minority of children **high quality residential care** may be appropriate, when determined to be in their best interest. This is ideally provided in small groups, within the community, with a highly trained workforce who support the children and, wherever possible, strong relationships with the birth and extended family are maintained.

While some principles are clearly agreed at international policy level, such as the need to transition away from the use of institutional care,¹ some discrepancies remain in the interpretation of different policies and conventions relating to the provision of high-quality alternative care. We are encouraged by the progress that the CRPD and CRC Committees have begun to make towards common language on these issues, and **encourage the Committee on the Rights of the Child to work closely with all UN Treaty Bodies to close the interpretation gaps and present States parties with a clear vision for care reform.**

The principles outlined above must be applied to **all** children, including those in particularly challenging situations, such as those on the move and in refugee and emergency situations. A recent study² carried out by Lumos with UNCHR, IOM and UNICEF, found that in many cases, unaccompanied migrant, asylum-seeking and refugee children are not offered the same standards of alternative care as children already in the country. The research found that even in countries that have abandoned institutional practices for their own children, there is an over-reliance on institutions for unaccompanied children, and promising family- and community-based care solutions are under-utilised. **States must be strongly encouraged to develop national strategies for the inclusion of unaccompanied migrant, asylum-seeking and refugee children into national child protection systems** in a non-discriminatory manner, which recognise the need to support additional and different vulnerabilities, and which meet international, regional and national standards.

3. Ensure Member States deliver on comprehensive, inclusive and sustainable care reform

To achieve the above, States currently relying on institutions must implement a programme of care reform. Reforming care systems is a complex and sensitive process that involves developing new services, ensuring a safe and supported transition for children to families or family-based care, and eventually closing institutions. It requires time, resources, a well-planned approach and careful preparation at all levels, from the national to the individual child. Crucially, the purpose is not to cut costs, but to reinvest funds which would be spent on institutions in family and community-based services, to support more children and produce better outcomes.

Inclusion is fundamental. In our experience, even in countries that have made a commitment to care reform, it is often those with disabilities or complex needs that are left behind. The processes must involve developing support services and long-term family-based solutions for **all** children, prioritising those with the most complex needs first.

The Committee should push for States to undertake comprehensive care reform programmes where there is still reliance on institutions. States must adopt a holistic approach, investing the time and resources necessary to build strong systems and ensure that every child has a placement that best meets their needs. Learning from the process should be captured and shared with other countries. Care reform programmes must be fully inclusive, and ensure no child is left behind.

4. Emphasise the need for strengthening of child protection and care systems to be fully integrated in recovery programmes following the Covid-19 pandemic

The COVID-19 pandemic amplified the challenges that vulnerable children and families already face – from poverty and unemployment to lack of access to health, education and social services.

Our experience delivering emergency programmes during the pandemic included providing food and economic support for families at risk, holding psycho-social support sessions for children and young people, and tracing children who had been rapidly released from institutions as a result of COVID to ensure they could get the support they needed.³ We found that even during such an unprecedented crisis, children can remain at home with their families – but that strong child welfare systems and targeted support for families, children in care and care leavers are more important than ever. In the long-term, the socio-economic impact of the crisis, coupled with strained government services, will continue to test the capacity of States to support vulnerable families and to provide appropriate alternative care.

It is essential that States are strongly encouraged to scale up the capacity of quality family-based care and social protection systems, both in response to this crisis and as part of ‘building back better’ over the longer term. This will not only help child protection and welfare systems to cope better with future crises; stronger systems will benefit whole societies by enhancing family resilience, preventing unnecessary family separation and recourse to residential care and ensuring that all children in alternative care, as well as care leavers, have access to services that meet their needs and rights.

5. Promote cross-cutting measures that are essential in enabling high quality and inclusive alternative care for children

The Committee on the Rights of the Child should, and should encourage States and all relevant stakeholders to:

- **Listen to those with experience:** processes to determine policy and law regarding the rights of children in alternative care, whether at national or international level, should always include meaningful consultation with children and with adults who have experience of alternative care. The Committee on the Rights of the Child can not only promote this, but should also set an example by ensuring that their processes involve meaningful and inclusive child participation wherever possible.
- **Emphasise the importance of data collection and monitoring.** In 2019, the UN General Assembly urged States to improve data collection systems related to children without parental care to close data gaps and ensure that quality data guides policymaking.⁴ There remains a long way to go for States to close these data gaps, and it is therefore crucial that this topic remains high on the international policy agenda, and that all UN bodies, including the Committee on the Rights of the Child, reinforce the message that States must work to collect disaggregated data on all children outside family care.

States must also be urged to invest in monitoring and evaluation of child protection systems and care reform processes, and to adopt appropriate indicators, for example based on outcomes for children.

- **Promote the links between care reform and the wider international development sector.** Strong child protection and care systems are needed in every country, to make sure that all children can live well and thrive. Reforming and strengthening care systems is therefore an integral part of delivering on the SDGs, and is also not something that can happen in isolation: it requires a holistic approach, involving all relevant government departments and a whole host of related sectors, such as education, early childhood development, disability, prevention of violence against children, and international development more broadly. The Committee can play a role in highlighting the links between family strengthening, strong child protection systems and broader economic and social development, and should also take every opportunity to advocate for those involved with children's care to work closely with other related sectors, and to identify concrete ways in which related fields such as education, health can support children's right to family life.

Lumos is an international NGO fighting to tackle the causes of family separation and transform systems of care that take children away from their families and communities. We're committed to ending the institutionalisation of children, so every child enjoys the right to grow up in a loving family where they can thrive.

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References

¹ United Nations (2019) Resolution adopted by the General Assembly on 18 December 2019. Rights of the Child, A/RES/74/133, p. 12 (paragraph 35).

² Lumos et al (2020) *Rethinking Care: Improving Support for Unaccompanied Migrant, Asylum-Seeking and Refugee Children in The European Union*. Available at https://lumos.contentfiles.net/media/documents/document/2020/08/UMRC_Report_2020_v3_NEW_BRAND_WEB.pdf [Accessed 29 June 2021]

³ Lumos (2021) *Impact Report 2020*. Available at https://lumos.contentfiles.net/media/documents/document/2021/06/LUMOS_Impact_Report_2020_Tn4uhs.pdf [Accessed 29 June 2021]

⁴ United Nations (2019) Resolution adopted by the General Assembly on 18 December 2019. Rights of the Child, A/RES/74/133, p. 11 (paragraph 35).