

Day of General Discussion: "Children's Rights and Alternative Care"

16 - 17 September 2021

Submission
SOS Children's Villages International

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SOS Children's Villages, founded in 1949, is the world's largest non-governmental organization focused on supporting children and young people without or at risk of losing parental care.

Locally led, we work in more than 130 countries and territories to strengthen families who are under pressure so they can stay together. When this is not in a child or young person's best interests, we provide quality alternative care according to their unique needs.

Together with partners, donors, communities, children, young people and families, we enable children to grow up with the bonds they need to develop and become their strongest selves. We speak up for each child's rights and advocate for change so all children can grow up in a supportive environment.

Abstract

This submission focuses on some outstanding gaps in the child rights global agenda related to quality care of children, which is fundamental to their survival, development and overall wellbeing. We present below three key aspects that must be addressed to ensure quality care for all children. Namely, we argue that:

- 1. Governments must significantly increase investments** on social services provided to prevent unnecessary separation of children from their families, and to provide suitable quality care options to those that have lost parental support.
- 2. Siblings should not be separated when placed in alternative care**, unless competent authorities deem it to be in their best interest. The issue of sibling separation is a significant gap and often overlooked in law, policy and practice.
- 3. Quality and individualized care should not be jeopardized when responding to humanitarian crisis but rather enhanced and properly resourced.** The crisis that emerged from the COVID-19 pandemic and the measures imposed to contain it negatively impacted children's care both within their families and in alternative care settings.

Addressing these gaps will contribute to States fulfilling their obligations with respect to quality care as established in the UN Convention on the Rights of the Child, and further elaborated in the UN Guidelines for the Alternative Care of Children¹. Moreover States committed, through 2019 UN

General Assembly Resolution on the Rights of the Child, to prioritize investments in child protection services and social services to prevent unnecessary separation of children from their families and to provide quality alternative care when necessaryⁱⁱ.

1. Investing in Quality Care

All children should grow up in a family environment, in an atmosphere of happiness, love and understanding for their full and harmonious development of their personalityⁱⁱⁱ. They all have the right to be loved, nurtured and protected and to develop strong and reliable relationships with their caregivers^{iv}. All children have the right to experience this positive, empowering, stable and loving relationships, which are fundamental for their full and healthy personal development, and such an environment should also be provided to children placed in alternative care.

a. Comprehensive social protection system that supports families

States should implement effective measures to prevent child abandonment, relinquishment and separation of the child from his or her family. Ensuring quality care requires that States invest in a system that provides high quality family support services and delivering tailored family strengthening responses to prevent the unnecessary separation.

The likelihood of children being separated from their families can be drastically reduced by addressing the key drivers of separation with significant financial and human resources. Common drivers of separation include, among others: poverty, health of caretaker, access to food and nutrition, access to education, access to specialized services such as services for children with disabilities, stigma and discrimination against children from ethnic minorities or other vulnerable groups, violence, abuse and neglect.

A comprehensive and integral approach to child welfare, protection and family support that addresses these challenges would significantly reduce risks of unnecessary family-child separation.

b. Quality range of alternative care options available

Quality care for all children also includes the responsibility of States^v to ensure the availability a range of alternative care options that specifically respond to the individualised care and developmental needs of each child. When placed in out of home care, children need environments that enable positive and nurturing relationships with carers; provide stability and security to continue developing and growing; and ensure that specific emotional, psychological or physical care needs are addressed on a case-by-case basis. In this way, children can be better nurtured and lead to successful outcomes for every child.

Positive and supportive relationships between children and their parents or any other caregivers lie at the very heart of quality care. This includes not only the preservation of existing family ties but also the opportunity to build new attachments with other consistent caregivers who demonstrate positive regard for the child's well-being, development, interests and aspirations.

Positive care-giving styles and behaviours promote a sense of secure attachment, of being loved, of belonging and help a child develop resilience and self-confidence. This requires that parents and caregivers be empowered with the necessary attitudes, skills, capacities and tools to ensure individualised quality care for all children. This includes, but is not exclusive to:

- Providing a stable loving environment for the child
- demonstrating a positive attitude towards the child
- supporting their ambitions and the acquisition of suitable skills/education
- positive physical contact
- non-violent/positive discipline
- involving the child in decision-making
- encouraging the child's development, autonomy and self-confidence
- responding appropriately to the child's questions

A fully resourced child protection system would enable the States to provide quality alternative care placement for those children in need of it. In keeping with the principles of necessity and suitability

emphasised in the Guidelines - and reinforced by the 2019 UN Resolution on the Rights of the Child- investments for quality alternative care should focus on -inter alia:

- ✓ Gatekeeping mechanisms that follow each child's case on a regular basis,
- ✓ Development of a suitably dedicated, rigorously selected, qualified/trained, appropriately remunerated and monitored social workforce, caregivers and para-professionals.
- ✓ A range of quality alternative care options^{vi} that ensures that each child is placed in the most suitable care option to address his or her specific care needs.
- ✓ A properly resourced, orderly and monitored reintegration of children to their family when deemed in their best interest, with ongoing support and supervision to the family.
- ✓ Continued support for children aging out of care, to accompany their transition into adulthood, especially on issues such as access to housing, education and the labour market.
- ✓ Appropriate and accessible complaints procedures for children to ensure recourse, should they feel unsafe both within their families and when placed in alternative care.
- ✓ Strong and continued consultation mechanisms with children to ensure that due consideration is given to their views and opinions.

Quality in non-family based/residential alternative care

One crucial gap in policy and research is what constitutes quality in all forms of alternative care. A recent literature review of over 100 studies in English, French & Spanish conducted by CELCIS provided important insights into what peer reviewed literature says regarding quality alternative care in residential settings. Findings indicated that, for example, in residential care quality can be assessed through at least four critical domains, in addition to children's development outcomes: setting (type of environment), staffing, safety and treatment^{vii}.

Quality care can be provided in settings that recreate a safe family-like environment, similar to that of children who live with their families. Such settings afford opportunities for nurturing relationships and bonding with stable, safe and well-prepared caregivers.

Additionally, quality care settings offer possibilities to: maintain, strengthen or establish connections with friends and relatives; access community services when needed; enhance sense of security and safety; and provide individualized treatment to meet the physical and emotional needs of each child concerned.

Research, our organisation's programme experience and the views of children under our care show that quality care requires safe environments, stable relationships and empowering support for all children. As per SOS Children's Villages experience, this is possible when children and young people have continuity of care by the same caregiver(s) that is emotionally accessible and enables responsive interactions; and with whom they can form a bond, should they chose to do so. This individualized, stable and child-centred approach to care cannot be delivered in large scale facilities and impersonal care, nor without the support of specialized professionals.

Finally, quality care also requires a fundamental commitment to listen to children at all stages of decision-making and care-planning and to ensure that actions taken are founded in a professional, multi-disciplinary and participatory determination of the best interests of the child. SOS Children's Villages asked children in its family support and alternative care placement programmes across nine countries about being involved in decision-making^{viii}. They overwhelmingly asserted that they want more inclusion in decisions being made about them and their lives, as well as decisions that affect their families. This revealed the importance of children being consulted and informed about their situation.

Quality - Children's Voices

"I feel happy because I am always surrounded with love...the care I am given and the support"

"understanding and loving care"

"when you don't make them feel like they are not with their biological family, when you treat them like your biological child"

"all children should live in a supportive, protective and caring environment"

"paying attention more often, more love and attachment to children"

SOS Children's Villages International, [Consultation conducted with children receiving family strengthening services and in residential care](#). SOS Children's Villages International, 2020.

2. Siblings and family unity

Paragraph 17 of the UN Guidelines for the alternative care of children explicitly states that siblings should not be separated when placed in any form of alternative care unless such separation is clearly determined by the competent authorities as necessary to serving their best interests.

Siblings - Children's voices

"The thing I was hoping was to bring my brothers and be together, and it really happened."

SOS Children's Villages International, Consultation conducted with children receiving family strengthening services and in residential care. SOS Children's Villages International, 2020.

Despite such precedent on this vital issue the 2019 UN Resolution on the Rights of the Child overlooked sibling relations and separation as a concern.

Furthermore, in the monitoring work of the UN Committee on the Rights of the Child we also see limited coverage of this issue in State reviews^{ix}, indicating that the issue is not routinely raised. This shows that sibling relationships and potential separation are not yet broadly understood or seen as a key concern regarding placement of children in alternative care, nor as the focus of preventing family separation.

From childhood into adulthood, sibling relationships are likely to be some of the longest lasting and closest familial relationships in any person's life. Sibling separation on placement in any form of alternative care only serves to fracture family unity and further exacerbate the trauma of separation from parents. Additionally, it particularly overlooks the important emotional bonds where, for example, older children are also key attachment figures for their younger siblings.

At a moment in life of traumatic transition sibling relationships, with a shared common history and close emotional bonds, are a vital source of continuity and comfort, not to mention, a sense of belonging and identity.

In addition to the clear emotional impact of a failure to preserve sibling relationships in alternative care, we also note the significant practical implications that such actions have on limiting the potential for family contact and for future reintegration.

Siblings - Children's voices

"When I look back at my childhood...I am most grateful that I was not separated with my little brother...this anchored us both."

For the Children We Used to Be (Care Experienced Blog); Keeping siblings together, 2019.
[https://forthechildrenweusedtobe.home.blog/2019/05/03/habineza-there-is-still-good-in-the-world-2/\(Last seen on June 28th 2021\).](https://forthechildrenweusedtobe.home.blog/2019/05/03/habineza-there-is-still-good-in-the-world-2/(Last%20seen%20on%20June%2028%202021).)

Siblings - Children's voices

"When siblings leave their family home, they must never be separated. There is already enough suffering in going away from their parents" -

"The bond that connects us is so strong nobody can break it...that connection, I wouldn't want it to somehow break, I would really miss it" -

"Siblings take care of each other because they support and motivate each other"

SOS Children's Villages International, Because we are Brothers and Sisters, SOS Children's Villages International, 2012.

Family unity as a right applicable to all human beings naturally encompasses the need to fully consider dependency in sibling relationships. "A right to family unity is inherent in the universal recognition of the family as the fundamental group unit of society, which is entitled to protection and assistance. This right is entrenched in universal and regional human rights instruments and international humanitarian law, and it applies to all human beings, regardless of their status"^x.

At a moment of uncertainty, worry or trauma in any child's life when being separated from their parents, further fracturing family unity by separating siblings is an additional trauma for the child. We remain deeply concerned that the specific issue of the separation of siblings is not yet broadly tackled or legislated in national law and/or policy. In many countries, this is a systemic and recurrent issue where

placement in care settings is arranged according to age or gender, or where there are no suitable alternative care options to care for large groups of siblings.

3. Quality care as response to humanitarian crisis: the impact of COVID-19 on children's care

The impact of the COVID-19 pandemic has laid bare the lack of investment in social services to support families in vulnerable circumstances and in guaranteeing quality care for children in alternative care placements.

Our experience showed that the lockdown measures put in place to contain the pandemic restricted or even eliminated visits from families of origin to care facilities. We also saw a reduction of access, visits and contact with social workers and specialized professionals. Moreover, families receiving support and assistance saw their benefits reduced and their livelihoods jeopardized with loss of sources of income. They also experienced limitations or interruption to ongoing visitations by professionals.

The temporary or permanent closures of some care facilities forced rapid and unmonitored reintegration of children to their families of origins, whenever a child had a traceable family. This put children in potential danger and high risk, as in some cases they were sent back to families who were unable or unwilling to care for them. Some of this children were originally removed due to issues of violence, abuse or neglect within their families. This rapid reintegration without appropriate and due individualized process affected thousands of children in different regions of the world^{xi}. While reintegration processes should be in placed as part of a quality care system, it should only be done on a case by case basis, ensuring the best interest of the child and developing a proper plan to accompany the child and his or her family in the process.

Finally, young people aging out of care and transitioning into independent living were faced with extremely fragile situations - which in many cases forced them to return for help to some of SOS Children's Villages programs. Their key challenges included reduced access to food and housing, loss of jobs, no access to remote tools and infrastructure to continue their education. Many lacked resources and family support to overcome the anxiety and uncertainty that the isolation and lockdown created.

This is compounded with increased number of children who lost their primary caregiver to COVID-19 and who may be in urgent need of alternative placement. Governments need to ensure that quality alternative care options are made available to all children, and that placement continues to be guided by the principles of necessity and suitability. This means investing in properly supporting extended families, expand family based alternative care options and ensure quality and properly resourced residential settings.

States must also consider measures to recognize the critical role of care workers and ensure necessary human and financial support. They have been faced with extreme pressure and even risked leaving their own families unattended during the crisis. Additionally, there is an ongoing and pressing need to ensure that key care workers have access to appropriate personal protection equipment to avoid interruption of their work and ensure continuity of care to all children. Additionally, they could be well served with, for example, remote circles of learning and support - including mental health and psychosocial support - so that they can stay connected, share experiences, learn from each other and lift each other up.

In this context, it is imperative to ensure that that the progress achieved in quality in alternative care is not jeopardized in the roll out of the response measures and the long term plans building back in the aftermath of the pandemic. This includes, among other things:

- ✓ Robust and adequate gatekeeping processes ensuring the necessity and suitability of every child's placement and avoiding one-size-fits-all solutions.
- ✓ Appropriately supported and resourced care settings to ensure the emotional, psychological, physical, educational wellbeing and development of all children in alternative care - including maintaining contact with their families even during lockdowns.
- ✓ Adequate and prompt process for the reintegration of children. Planned, supported, supervised and suitable reintegration of a child should continue to be made on a case-by-case basis, giving due consideration to the child's best interests. Support needs of the family should be assessed

and met to ensure a successful reunification. Closures of alternative care settings must not force unplanned reintegration without these considerations.

- ✓ Additional alternative care placements should be foreseen and planned for, as short and/or long-term loss of caregivers, who may fall sick or die due to the pandemic, may lead to additional care placement needs. Any expansion of the system should be aligned with the UN Guidelines for the alternative care of children, especially regarding care during in emergency situations.^{xii}
- ✓ Improve and scale up support and protection of care leavers who are faced with increased uncertainty, risks and vulnerability.

ⁱ The UN Guidelines for the Alternative Care of Children, UN Resolution [A/RES/64/142](#), 2009.

ⁱⁱ United Nations; General Assembly Resolution on the Rights of the Child , [A/RES/74/133](#), 2019; Article 34 (a).

ⁱⁱⁱ Convention on the Right of the Child, Preamble. The Committee on the Rights of the Child recognized in its General Comment 7 that “family” “refers to a variety of arrangements that can provide for young children’s care, nurturance and development, including the nuclear family, the extended family, and other traditional and modern community based arrangements, provided these are consistent with children’s rights and best interests.” (CRC/C/GC/7/Rev.1.page 7, paragraph 15).

^{iv} Center on the Developing Child at Harvard University, [Applying the Science of Child Development in Child Welfare Systems](#); 2016 p.7.

^v As per Convention on the Rights of the Child, Article 20: “a child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.”

^{vi} This includes support for informal kinship care, by relatives or close friends; foster and family-based and family-like placements; as well as other residential care, such as emergency and transit care and small group homes; and supervised independent living arrangements for youth” The UN Guidelines for the Alternative Care of Children UN Resolution [A/RES/64/142](#), 2009, Article 29 (c).

^{vii} Porter, R. B., Mitchell, F., & Giraldi, M. (2020) "[Function, quality and outcomes of residential care: Rapid Evidence Review](#)". CELCIS, Glasgow: [www.celcis.org](#)
You can access the executive summary [here](#)

^{viii} SOS Children’s Villages International, [Consultation conducted with children receiving family strengthening services and in residential care](#). SOS Children’s Villages International, 2020.

^{ix} See for example UNCRC reviews of Albania (2012), Uzbekistan (2013), Hungary & Morocco (2014), Netherlands (2015), Saudi Arabia & United Kingdom (2016) and Norway (2018).

^x UNHCR, “Summary Conclusions: Family Unity, Expert roundtable organized by UNHCR and the Graduate Institute of International Studies, Geneva, Switzerland, 8-9 November 2001”, in Refugee Protection in *International Law: UNHCR’s Global Consultations on International Protection*, (Feller et al. eds), CUP, 2003, pp. 604-608, available at: [http://www.unhcr.org/419dbfaf4.pdf](#). Cited in The Right to Family Unity of Refugees and others in need of international protection and Family Definition Applied by Frances Nicholson, UNHCR, January 2018.

^{xi} The UN Guidelines for the alternative care of children make clear that any changes in care placement should firstly limit the frequency of changes, i.e. not lead to serial placements, but further that any and all such changes are planned and, when this results in return to the family that this be “gradual and supervised process, accompanied by follow-up and support measures”. (Paragraphs 52, 60 and 68 of the UN Guidelines for the alternative care of children)

^{xii} The UN Guidelines for the Alternative Care of Children, UN Resolution [A/RES/64/142](#), 2009; paragraphs 153 - 163,



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