



# The National Alternative Care Policy for Children in Sri Lanka



Ministry of Woman and Child Affairs and Dry Zone Development

Department of Probation and Child Care Services

## **Message from His Excellency the President** **The Democratic Socialist Republic of Sri Lanka**

It is the responsibility of the government to create a conducive environment for children to provide and promote their rights to education, health, protection and live within the warmth of their natural family. If the children are denied of their right to live with their natural family they should have the right to live with the extended family or any other family. The National Policy for Alternative Care will provide guidance for such opportunity for children who do not have care and protection of natural parents or guardians. Moreover, preventive programmes for children who are at the risk of getting parental care and protection will also be carried out under this policy.

This policy has been developed by the Ministry of Women and Child Affairs and Dry Zone Development and Department of Probation and Child Care Services. But its implementation requires active participation of relevant government and non-government organizations to address issues identified in the policy.

In implementing the programmes of the government and provincial authorities, it is requested to adopt the strategies of this policy, aiming at achieving objective 16.2 of the Sustainable Development Goals.

The objective of the national programmes on “Protect Children” is to create a better and conducive environment for children for their psychological development.

Launch of the National Policy on Alternative Care is the need of the day and I would like to thank those who have contributed to formulate it.

**Maithripala Sirisena**

The President

The Democratic Socialist Republic of Sri Lanka



## **Congratulatory Message from Honourable Prime Minister** **The Democratic Socialist Republic of Sri Lanka**

Development and welfare of a country depends on the personality development of its citizens. Securing the lives of today's younger generation is an essential task for such a citizen's state. I hope, the National Policy for Alternative Care of Children in Sri Lanka, introduced by the Ministry of Women and Child Affairs and Dry Zone Development and Department of Probation and Child Care Services will be a great support in this regard.

This policy proposes a procedure to identify and provide due care for children rendered vulnerable owing to the absence of family care. Further, suitable care options in the best interest of the child have also been identified by this policy for children deprived of a family environment.

It is the children who suffer most when the family confronts various challenges and issues. Therefore, as a government, we are bound to provide each and every child the opportunity to grow up in his natural family or in another family with ample love and care. Providing institutional care should be the last resort for such children.

Understanding these national policy strategies correctly and implementing them with the collaboration of government and non-governmental institutions will be of utmost importance. This national policy has provided proper guidance to all central government and provincial council institutions working for underprivileged children on the procedure to be followed when providing alternative care for children.

I hope this National Policy for Alternative Care of Children in Sri Lanka will be a great support to create a better future for the younger generation of the country.

**Ranil Wickremesinghe**

The Prime Minister

The Democratic Socialist Republic of Sri Lanka

## **Message from Hon. Chandrani Bandara** **Ministry of Women and Child Affairs and Dry Zone Development**

Children are the most precious treasure of a country. They should be given the opportunity for a better childhood to become useful citizens. They should be given rights to live, develop themselves, protect and participate in matters affecting them. It is observed that all children in Sri Lanka do not receive an equal opportunity to have care and protection within the nuclear family.

The family is undergoing changes due to socio-economic, political and cultural factors as well as internal civil wars. This situation has created negative consequences on children making it compulsory for them to live outside their natural family warranting them for alternative care.

At a time when children are facing numerous challenges, I am pleased to state that developing a policy on alternative care is commendable.

It is also expected to develop a mechanism where the Ministry will implement, supervise and co-ordinate the proposed strategies of the policy. Moreover, it is important to have a collaborative approach to implement this policy by both the government and non-government organizations.

Developing this policy is timely. I believe that this policy guides those who are working for children in the government, non-government and the private sector. I would like to place on record my appreciation of the valuable work done by the Secretary of the Ministry, Commissioner of the Department of Probation and Child Care Services and the staff.

**Chandrani Bandara**

Minister of Women and Child Affairs and Dry Zone Development

## Foreword

I am delighted to write the foreword for the Alternative Care Policy for children in Sri Lanka. The United Nations have issued a guideline on the preparation of an alternative care policy for children in 2010. There are provisions in Sri Lanka laws for alternative care for children.

It is observed that lack of a proper policy for alternative care and the resource constraint have prevented children who do not receive care and protection within their natural family, from receiving the warmth of an alternative family. Unfortunately, these children have lost the rights they deserve to enjoy during their childhood. Therefore, it is the duty and also the responsibility of the State to provide alternative care for children who do not get care and protection of their family. This policy has identified six strategies for intervention in providing alternative care, such as Prevention, Gatekeeping, Children in alternative care systems, Children in contact or conflict with the law, Reunification and Reintegration, and Legal reforms. Policy guidelines and minimum standards of Identification of children at risk, implementation of preventive programmes, provision of effective service for children under alternative care and institutionalization as a last resort, are recognized in this policy. The policy has been approved on 06<sup>th</sup> March 2019 by the Cabinet of Ministers. It is intended to develop an action plan for the implementation of this policy.

I wish to take this opportunity to extend my sincere thanks to Ms Chandima Sigera, Commissioner of Probation and Child Care Services and her staff, UNICEF, Fridsro and other non-governmental organizations for their effort to launch this policy.

**Dharshana Senanayake**

Secretary

Ministry of Women, Child Affairs and Dry Zone Development

## Preface

The subject of Probation and Child Care Services became a devolved function under the 13th Amendment of the Constitution. Since then, services under this subject are being provided by the Provincial Commissioners of Probation and Child Care Services. Coordination between the center and provinces, provision of technical advice on amendments of laws relating to children, staff training and assistance for infra-structure development have become the responsibility of the department at the center.

It is observed from the statistical records that the number of institutionalized children have increased over the last two decades. The surveys carried out to find reasons for this change have revealed that poverty, dysfunctional families, health issues and other socio-economic reasons are the causes for institutionalization of children. Although institutionalization of children is recognized as the last resort, it has become a common practice due to the weaknesses of the legal framework and methodologies adopted by the authorities for integration of such children into society.

Having recognized these shortcomings of the existing policy, action was taken to draft a new policy on alternative care for children. A series of consultations were conducted in order to gather views and suggestions of the children of the institutions, their parents and the staff who are working with children. Finally, a national consultation was held to obtain further comments and suggestions on the policy.

A draft policy was prepared with input received through consultations and it was presented to the Sectoral Oversight Committee on Women and Gender in Parliament for validation. Subsequently, approval of the Cabinet of Ministers was granted on 06<sup>th</sup> March 2019. It is expected to prepare an action plan for the implementation of this policy.

My sincere thanks should go to the Provincial Commissioners of Probation and Child Care Services, officers of the government and non-governmental organizations and the technical specialists for their valuable contributions in drafting this policy. I wish to offer my special thanks to UNICEF and Fridsro for their financial and technical support. Contributions by Prof. Savithri Gunasekara, Dr Harini Amarasuriya, Dr Charika Marasinghe and Dr Hiranthi Wijemanne are commendable and I thank them all. I also wish to thank Ms. Nirmalee Perera, Senior Probation Officer who coordinated all work in the drafting process and my staff. I greatly appreciate the guidance and assistance of the Secretary of the Ministry of Women and Child Affair and Dry Zone Development.

**Chandima Sigera**

Commissioner, Department of Probation and Child Care Services



# Content

	Preamble	ix				
<b>Section 1</b>	<b>Introduction</b>	<b>1</b>		<b>Section 5</b>	<b>Alternative Care option</b>	
	1.1 Scope of the Policy	2			5.1 Definition of Alternative Care	11
	1.2 Process of Policy formulation	2 - 3			5.2 Support	11
<b>Section 2</b>	<b>Principles and Values underlying the Policy</b>			5.3 Family - Based Care	11 - 12	
	2.1 The Necessity Principle	4		5.4 Family - like care	12	
	2.2 The Suitability Principle	4		5.5 Others Services and Mechanism	12	
<b>Section 3</b>	2.3 Values and Principles	4 - 5		<b>Strategies and Policy Interventions</b>		
	<b>Vision and Goals</b>			6.1 Prevention	13	
	3.1 Vision	6		6.2 Gatekeeping	13 - 14	
<b>Section 4</b>	3.2 Goals	6		6.3 Children in Alternative care System	14 - 16	
	<b>Situation of Children requiring alternative care</b>	<b>7 - 9</b>		6.4 Children in contact or conflict with the law	16 - 17	
				6.5 Reunification and Reintegration	17 - 18	
				6.6 Legal reforms, policy guidelines & minimum standards	18 - 19	
				<b>Section 7</b>	<b>Institutional Framework, monitoring &amp; review System</b>	
					<b>21</b>	
					<b>List of abbreviation</b>	
					<b>22</b>	
				<b>Annexures</b>	Annexures 1	
					23 - 24	
					Annexures 2	
					24 - 25	
					Annexures 3	
					25 - 26	

Sri Lanka's National Policy on the Alternative Care of Children outlines a comprehensive range of alternative care options and encourages the reforming of all formal structures that provide at-home and out-of-home services for children deprived of care and protection or at risk of being so. This policy also extends to children under care of the Juvenile Justice System. It provides policy solutions to programming for children at risk of family separation and facing deprivations such as child abuse, neglect, child labor, poverty, addiction, imprisonment, human trafficking, mental and Physical disabilities, HIV/AIDS, domestic violence, orphan-hood, abandonment and displacement etc. The policy also takes into consideration and encompasses provisions to children who are forced to live and work on streets.

In this document, alternative care is defined as any care provided to a child away from his or her parental home and is further classified as “family-based care” with kin, foster or adoptive parents and “family-like care” in residential settings that resemble family environments such as and not limited to safe houses, emergency shelters, respite care, group homes, and volunteer homes. Although Sri Lanka has some family-like care options, most residential settings need restructuring to create suitable family-oriented conditions as at times, a child may have to be placed there temporarily when necessary, appropriate, and conducive to his or her wellbeing. Bearing this in mind, the policy supports a systematic deinstitutionalization through the implementation of stringent time caps on the duration of stay and restructuring existing

residential facilities by down-sizing and creating more child friendly places while awaiting reunification or transfer to family-based care.

This Policy consists of the following six general policy statements and a comprehensive range of policy provisions for each:

1. Prevention
2. Gatekeeping
3. Children in alternative care systems
4. Children in contact or conflict with the law
5. Reunification and Reintegration
6. Legal reforms, policy guidelines and minimum standards

Considering the economic, social and cultural conditions of Sri Lanka, this policy aims to guide the work of the Government, its service provider agencies, developmental partners, private service providers and all other stakeholders to implement their obligations towards children deprived of or at risk of losing family environment.



The Democratic Socialist Republic of Sri Lanka is an island rooted in strong family values and religious traditions. Located south of India, Sri Lanka as of 2012 had a population of 20,359,439 comprising 74.9% Sinhalese, 11.2% Sri Lankan Tamil, 9.3% Sri Lankan Moors, 4.1% Indian Tamil and 0.5% other; the major religions represented are 70.1% Buddhism, 12.6% Hinduism, 9.7% Islam and 7.6% Christianity. The child population as of 2012 was 6,060,000<sup>2</sup>.

Throughout the recorded history of more than 2,500 years, Sri Lankans have been well known for their family-oriented values and practices. Traditionally, child-rearing was not an individualized practice but a community one where family, friends, and neighbors gathered together informally to support the pregnant mother as well as the new-born and developing child. However, Sri Lanka's informal social support system appears to be eroding due to current economic and social changes resulting in a steady decline in the reliance of child-rearing on the community. Also, the traditional sense of community has been fragmented due to multitude of reasons, including urbanization, poverty, impact of the war, changing social dynamics and others; as a result, one's own neighbors are unknown to entrust children for caregiving purposes.

Although many Sri Lankans value the Importance of raising children in their homes in familiar surroundings, there are multiple reasons that lead to children being removed from their homes. According to recent data, 31% of children in residential care have

both parents, 50% have one parent and only 18% are orphans. Most have resorted to enrolling children in residential care settings due to economic hardships, inability to provide education, disabilities, domestic violence, physical or mental illness, second marriages, and labor migration. According to data, only 15% of all children in institutional care have been admitted through court orders recommending institutional care either for care and protection or requiring correctional services<sup>3</sup>. In addition to institutionalized children there are vulnerable children who have not been reported. E.g. Children living on the street.

Due to the lack of comprehensive alternative care services, many children have been admitted to large residential facilities for a long-term placement. Global and national evidence shows that without individual attention and a secure, continuous relationship with a caregiver, a child most likely will grow up with multiple challenges, including attachment disorders, anti-social behaviors, and other deprivations. Family-based care provides a child with emotional, social and physical support as well as a sense of belonging to grow to his or her full potential.

Sri Lanka has laws, policies, and administrative regulations for vulnerable children. The Government has undertaken both to promote the rights of children and make child protection a key policy directive. Sri Lanka's Constitution also provides for the welfare and wellbeing of children. Sri Lanka also has international

obligations as a State Party to many international treaties, including the UN Convention on the Rights of the Child and Convention on the Rights of the Persons with Disabilities. In this context, the Government has produced this National Policy for Alternative Care in alignment with the UN Guidelines on the Alternative Care Of children to further the rights protection of vulnerable children and address the existing gaps in legal, regulatory, and service frameworks.

This document highlights key policy directives in preventing institutionalization of children and reunification of children in the institutional care with families and communities. This policy highlights key directives for strengthening families at risk of institutionalization of children and preventing unnecessary separation of families: institutionalization of children considered a last option. In this regard policy directives places emphasis on family reunification of children in institutional care where child's family has proved to have moved out of At-risk status. Families prevailing in at-risk status would be re-assessed in order not to breach emotional ties that exist between the child and parent/guardian. Options for children with families unsuited for dignified living will include kinship care after stringent assessments. Directives are given for Care Leaver preparation for children returning to families prior to age 18 and those children reaching 18 years of age.



## 1.1 Scope of the Policy

This policy, initiated and developed by the Department of Probation and Child Care Services (DPCCS) of the Ministry of Women and Child Affairs, identifies initiatives and institutional arrangements to strengthen the alternative care system within the framework of an overall deinstitutionalization process. The final goal of the strategy will be to prevent institutionalization and progressively eliminate long-term institutional care except in special circumstances. The policy recognizes, adhering to the principles of the UN Child Right Convention that the Government, is the upper guardian and is responsible for ensuring that all government and non-governmental stakeholders are guided in their decision-making process by this policy. The best interests of a child is fundamental in the application of these provisions.

Therefore, the policy calls for creating child-friendly, family-like environments within the existing residential care facilities, and the investment in more therapeutic and smaller-sized care and support centers, minimizing the formation of more large-scale institutions. To prevent a child from long-term stay in a residential care facility, the policy stresses the importance of the consistent implementation of case conferencing mechanisms to review placements and prepare children for reunification or transfer to a family-based setting in the most efficient manner possible.

The country requires family-like settings that target children who cannot live with their families either short or long term due to certain vulnerabilities within

the family which renders parents unable to provide quality care for children e.g. imprisonment of parents or non-availability of extended family, meaning those who have failed to thrive at home due to these conditions. Also suitable are smaller-sized safe houses, temporary emergency shelters for children on the street, small sized safe places and family-style counselling centers in all provinces. In the deinstitutionalization process considering the best interests of the child, the goal will be to assess and priorities the need of each facility and close down, downsize and restructure the ones that are not family-like in nature for children needing care outside their parental home. Annexure 1 describes examples of current residential care facilities in Sri Lanka.

Therefore, the policy specifies provisions for expanding family based and family-like alternative care provisions including formalised kinship and emergency foster care, while assessing each residential care setting with a view to making them more family-like and child friendly. Sri Lanka's alternative care package will be a comprehensive one expanded in an Action Plan ensuing this policy. This policy document has also identified a monitoring and review mechanism for implementation.

---

<sup>1</sup> Department of Census and Statistics, Sri Lanka (2012), p.128.  
<http://www.statistics.gov.lk/PopHouSat/CPH2011/Pages/Activities/Reports/FinalReport/FinalReport.pdf>

Accessed 08th September 2017

<sup>2</sup> Ibid

<sup>3</sup> National Institute of Social Development (2013). Status of Child Care Institutions and Institutionalised Children in Sri Lanka: A Situational Analysis. Department of Probation and Child Care Services, Ministry of Women and Child Affairs, Sri Lanka. P.35

## 1.2 Process of Policy formulation

In 2017 the Department of Probation and Child Care Services appointed two teams (Field Research Team and Policy Review Team) to look at the situation of children who need alternative care. The Field Research Team interviewed different stakeholders, children in residential care, parents of children in residential care and staff of state and non-state residential care facilities at national and provincial levels and members of children's clubs. The Policy Review Team studied existing laws and practices, studies on institutional care and alternative systems, policy documents and relevant statistics. A workshop was organised by the Department of Probation and Child Care Services with relevant stakeholders to obtain ideas for an alternative care policy. The two research teams then developed a draft policy on alternative care based on their research findings and input from the workshop. Next, the draft policy was shared with stakeholders at a National Consultation Workshop. Based on the comments and feedback from the national consultation workshop, the draft policy was further revised. Finally, the revised policy was further reviewed and then finalised by the Department of Probation and Child Care Services with the support of an expert in the field of child protection. The finalised policy was presented to the

Parliamentary Sectorial Committee on Women and Gender for their observations and made public for further discussion and comments. The finalised policy was presented to the Cabinet and approved on 06<sup>th</sup> March 2019.

The National Policy is based on the United Nations Guidelines on the Alternative Care of Children (resolution A/RES/64/142 of the United Nations General Assembly) and is aligned to the principles of 'Necessity' and 'Suitability'. It pays due attention to the UN CRC, Sri Lanka's Constitution, international obligations based on ratified international treaties, and best practices derived from developing bodies of knowledge in this sphere.

### 2.1 The Necessity Principle

The 'Necessity Principle' involves mechanisms that:

- Seek to prevent a child's admission into the alternative care system.
- Establish strong gatekeeping mechanisms ensuring that every option is considered to keep a child within his or her own parental home prior to alternative care services.
- Recognise that a child has the right to participate in all decisions regarding his or her placement within his or her evolving capacity.
- Emphasise the need for a stronger comprehensive assessment, and multi disciplinary team approach to determine the necessity of placement.

### 2.2 The Suitability Principle

The 'Suitability Principle' is based on the premise that:

- If it is not viable to keep a child within his or her nuclear family, then the most appropriate forms of alternative care will be advocated to promote holistic development of the child.
- When it is determined that alternative care is required, the most suitable one will be chosen with the participation of the child taking the best interests of a child in to consideration.
- If alternative care is the only solution, it is required to review and assess periodically to ensure the child's adjustment to the new environment.

### 2.3 Values and Principles

The followings are the values and principles enshrined by this Policy:

- ❖ **BEST INTERESTS** - Ensuring that a child's best interests are considered first in all decisions
- ❖ **FAMILY** - Making every effort for a child to live in a family environment
- ❖ **PROTECTION** - Guarding the safety and well-being of a child
- ❖ **EMPOWERMENT** - Capacity-building through training, preparation and resource allocation for children, caregivers and social workers.

- ❖ **INCLUSION** - Unconditional acceptance regardless of predisposition
- ❖ **PARTICIPATION** - Consult a child in decision-making processes and inform them of impending changes
- ❖ **NON-DISCRIMINATION** - A child's rights are upheld without bias of pre-existing status or condition
- ❖ **SUPPORT** - Providing assistance to help families raise their child/children
- ❖ **ADVOCACY** - Fighting for the rights of each child
- ❖ **COMPREHENSIVE** - Present a wide-range of care options
- ❖ **MONITORING** - Regular review and accountability
- ❖ **PRIVACY** - Keeping information confidential
- ❖ **QUALITY** - Quality family support/alternative care services in conducive environments
- ❖ **COLLABORATION** - Team efforts are being maintained by all who serve children

Where institutional care cannot be avoided, minimum standards and guidelines for residential care shall be implemented, monitored and evaluated in accordance with the four overriding **principles** of the Convention on the Rights of the Child:

- The principle of the best interests of the child
- The principle of non-discrimination
- The principles of the right to survival, development and protection
- The principle of participation by the child in her/his own development.

While implementing these principles it is necessary to integrate other aspects of the Convention on the Rights of the Child:

- Due regard needs to be given to the continuity of a child's upbringing and her/his ethnic, cultural, and linguistic background.
- Placing the children in a care setting that is as closed as possible to her/his family
- Contact between children in alternative care and their families need to be encouraged whenever possible hence the need for accurate and up-dated records and files.
- The child has a right to review his/her treatment and other circumstances.
- The child should not be deprived of her/his right to liberty.
- Alternative care providers' staff shall be carefully selected, trained and appropriately remunerated.

- Each child is unique and his/her uniqueness shall be taken into consideration in any decisions taken which affect the child's life.
- Siblings shall not live separately or be separated by placement except under unavoidable circumstances.

---

<sup>4</sup> UN General Assembly (2010) Guidelines for the Alternative Care of Children resolution/adopted by the General Assembly, 24 February 2010, A/RES/64/142 <http://www.refworld.org/docid/4c3acd162.html>. Accessed September 1<sup>st</sup> 2017.



### 3.1 Vision

To recognize and enable every child's right to be nurtured and protected within a conducive family and community environment upheld.

### 3.2 Goals

- a. To promote and enhance the rights of children to a family environment as recognised by the United Nations Convention on the Rights of the Child.
- b. To implement a well-defined, systematic deinstitutionalization process with the aim to minimize institutions progressively.
- c. To ensure that all measures are taken for children to grow up in a nurturing and protective family and in a child –friendly community environment.
- d. To ensure that when separation has occurred children are returned to their biological families or failing this, to find another suitable permanent family-based solution to meet their comprehensive need for care and protection.
- e. To ensure that when a permanent family-based solution is not possible or not in the best interests of the child, the most suitable alternative care option is identified and

provided in accordance with the UN guideline on alternative care, prioritizing firstly family-based care thereafter family like care and institutional care as the very last option.

- f. To strengthen all alternative care options so that institutional care is considered the last resort and for a limited period only.
- g. To ensure access to public health services, free education, legal, economic, and psychosocial support for the child's survival and development as well as youth leaving care facilities.
- h. To enhance the capacity of the community to care for and to protect vulnerable children through the promotion and the strengthening of all community safety nets.

Children are at risk of separation from their parental homes due to various reasons such as poverty, homelessness, crime, lack of access to education, absence of one or both parents, lack of suitable caregivers, parent migration, parents imprisonment, domestic violence, marital discord, teenage pregnancy, disabilities, long-term family illnesses, physical and sexual abuse, abandonment, natural disasters, war, and conflict. Children exposed to one or more of the vulnerability situations described below can be considered children at risk:

- Orphans
- Abandoned children
- Children infected or affected by HIV/AIDS
- Abused children whether sexually, physically or emotionally
- Children living in the Street children
- Children in conflict with the law
- Children victims of exploitation whether sexually or any forms of harmful labour
- Children with disabilities
- Children addicted to drugs
- Children whose basic physical emotional needs are not being met.
- Children living in prison environments due to a parent being detained
- Child refugees

- Internally displaced children (due to war and disasters)

These and other vulnerabilities should be addressed by Government and other stakeholders to minimize the need for family separation. A strong attachment between a parent and child is critical in establishing a sense of security in the child as the long-lasting psychological connections with a significant person causes pleasure and stress relief.

Some children might need care and protection in an alternative setting like those in conflict with the law or those living in dysfunctional family environments. When providing alternative care to children who have been abused, neglected and exploited care options should be selected accordingly. Most often, mental illness, difficult behaviors, or disabilities are not reasons itself for admission into alternative care for an extended period of time. In most cases, children victims of abuse and exploitation, or those needing special care and attention will need psychosocial support and care, which can be provided in the community environment, without the need for separation from family.

Overall, while there are several alternative care options, institutional care continues to be almost the default option when children require care and protection in Sri Lanka. As a result, even the children needing short-term support have been placed in long-term residential facilities. Although some deprived

children may need short-term residential care for addressing a specific need, most children will need family-strengthening programs or family-based care. Children requiring temporary and short-term alternative care placements in residential settings may include those living on the street needing shelter, victims of abuse living in unsafe home environments, victims of trafficking, those who are addicted to illicit drugs, individuals within the juvenile justice system and those with multiple developmental disabilities requiring specialized treatment. Natural disasters and conflict also create situations requiring alternative care options. A new problem that the Sri Lankan state needs to address is that of refugees and asylum seekers with children. Also, there are a number of children (Sri Lankan as well as non-Sri Lankan) currently in adult prisons due to a parent being detained.

In 2014, there were 14,179 children in institutional care in Sri Lanka, living in 414 registered Government and privately operated Child Care Institutions (CCI) across the country. Several studies done over the past few decades have pointed to serious inadequacies in care and protection in both state and non-state residential care facilities in Sri Lanka. The studies have also shown that even existing alternative services such as adoption and fit-person provision are not used sufficiently. The most recent analysis of child care institutions by the Ministry of Women and Child Affairs and the DPCCS suggests that while there has been an improvement in infrastructure and services in

residential care, the majority of children are placed in residential care facilities due to poverty and family problems. Parents and guardians are of the view that children, especially adolescent girls, are able to access better quality education and live in a relatively safe and secure environment in such care facilities. However, the report also shows that children face considerable emotional and social difficulties due to separation from families and guardians as well as the institutionalized environment in residential care facilities. Further, reintegration into society has also proved to be challenging as the children lack social awareness and skills and more importantly have weak links with family and peer networks to support their lives outside care facilities. These findings highlight the need to establish and strengthen appropriate and adequate alternative care arrangements to reduce the dependence on residential care facilities for the care and protection of children.

There are many shortcomings in the existing referral system and clustering of children at CCIs. Many residential facilities such as certified schools and remand homes provide housing for child victims of abuse together with children in conflict with the law, although proposed Children Protection and Justice Law has new provisions to separate victims and children in conflict with the law. Children convicted for petty offences, such as the theft of a coconut or a loaf of bread, have had the same institutionalized living arrangement, as the ones convicted of more serious offences, despite existing laws providing other options for minor offences. If apprehended after office hours or during weekends, children sometimes are kept in

police cells overnight without adequate sleeping arrangements until brought before a court. It is routine for children to be transported in the same vehicle together with adult prisoners. However, the proposed law referred to above has provisions for Provincial Commissioners of Probation and Child Care being responsible for transportation of children.

Although, many child care staff are extremely committed and dedicated, many are under stress due to the high volume of their workload. Many staff work in stressful environments and there are inadequate resources for adequate technical supervision and support. Moreover, many child care staff lack competent education and social work skills, which add to the difficult situation. The Human Rights Commission of Sri Lanka has documented cases of abuse, including corporal punishment, by caregivers at institutions. There is a dire need for a strong monitoring system that holds caregivers accountable, thus preventing the re-victimization of children. There is also a strong need to training and education of caregivers, with appropriate resource allocation to attract qualified individuals to the child care sector.

There are disconnects between various government and non-governmental entities that provide preventative and alternative care to children in Sri Lanka. Further, gaps in the protection mechanisms and service provisions for children are evident in the country. An effective gatekeeping system is vital to prevent children from being unnecessarily admitted to alternative care settings.

Additionally, adequate family-strengthening programs and preventative care is needed to equip parents and guardians to care for their children in their own homes. The government has implemented several family strengthening measures. There are over thirty welfare programs overseen by some eleven departments that are currently being implemented, which focus on the reduction of poverty and vulnerability of families. Cash assistance programs are an important prevention tool, however, most of them are not carefully targeted and do not consistently use a digital record-keeping system resulting in incomplete monitoring, coordination and evaluation of progress. According to the Household Income and Expenditure Survey (HIES) 2012/13 data, although 6.7 per cent of the households live below the poverty line, only 16 percent of those households in Sri Lanka have received Samurdhi cash transfers. In addition, almost two-thirds of the poorest quintile do not receive any cash transfers at all and as a result some beneficiaries remain in these programs longer than they should, while others in need never gain access to. There is also a call to promote more awareness among the public on these social assistance programs. More preventative and awareness measures are also needed, especially within school curriculums to educate staff and students about various social issues.

In view of the above described context, the Ministry of Women and Child Affairs initiated this National Policy on Alternative Care of Children delivering a comprehensive range of community-based care provisions to fulfil and advance the rights of all children in need of care and protection, as well as children in contact and conflict with the law.

<sup>5</sup> National Institute of Social Development (2013). Status of Child Care Institutions and Institutionalised Children in Sri Lanka: A Situational Analysis. Department of Probation and Child Care Services, Ministry of Women and Child Affairs, Sri Lanka.

<sup>6</sup> See for instance, Vijay Samaraweera (); Save the Children, Home Truths: Child Rights in Institutional Care in Sri Lanka (2005) C.Rocella (); Ministry of Women and Child Affairs (2013); Ariyadasa ().

<sup>7</sup> National Institute of Social Development (2013). Status of Child Care Institutions and Institutionalised Children in Sri Lanka: A Situational Analysis. Department of Probation and Child Care Services, Ministry of Women and Child Affairs, Sri Lanka.

<sup>8</sup> For example, in the Children and Young Persons' Ordinance, sentencing options for children in conflict with the law including conditional discharge, admonition and discharge, deliver to parent and guardian, placing under probation supervision, committing to the charge of a fit person, ordering a parent to pay a fine, referring to Mediation Board. Police Ordinance also allows for the police to settle the matter at point of complaint.

<sup>9</sup> Human Rights Commission (2016). Children Deprived of Liberty: A Multi-Disciplinary Study, Sri Lanka.

<sup>10</sup> The World Bank Group (2017). Sri Lanka Poverty and Welfare: Recent Progress and Remaining Challenges, Washington D.C. USA.

<sup>11</sup> Ibid.

<sup>12</sup> The National Welfare Benefit Board of the Ministry of Finance is in the process of developing criteria for a comprehensive social protection system to enable better identification of individuals and families in need of social protection.

<sup>13</sup> Department of National Planning. Chapter 8, Social Protection. Public Investment Programme (2017-2020). Sri Lanka. P. 127-136



COURT - 02

പാലക്കാട് സിബി



Sanjeevini

### 5.1 Definition of Alternative Care

Alternative care is a formal or informal arrangement where a child is cared for outside the parental home, either due to a decision by a judiciary or duly accredited entity, or at the initiative of the child, parents/guardians, or in the absence of parents, spontaneously by a care provider<sup>14</sup>. The UN Guidelines for the Alternative Care of Children (the Guidelines) defines both formal and informal care arrangements. Informal care involves a parent or guardian who privately arranges care of their child to a relative or friend privately for an indefinite period such as informal kinship care. The Guidelines describe “formal alternative care” as all placements with a formally recognized caregiver, regardless of the type of care arrangement.

### 5.2 Types of Formal Alternative Care and Family Support

Formal care is classified as family-based or family-like care: family-based care includes kinship care, foster care and adoption while all residential care options are considered family-like care options of alternative care<sup>15</sup>. The options listed below are organised according to a hierarchy where the best option is listed first. Removing a child from existing family environment including extended family is the last resort. Services and mechanisms to support a child living with the family should also be explored before

considering removing the child from that environment.

### 5.3 Family-Based Care

Family-based care is provided in an existing family setting whether in one's own biological family, kin, foster or adoptive family<sup>16</sup>. Family-based care could include, where appropriate, child-led households in situations where elder siblings are available and can be supported to take care of younger siblings.

#### 5.3.1 Kinship Care

Kinship care is defined in the Guidelines as care that is provided by relatives or other caregivers close to the family and are known to the child<sup>17</sup>. In Sri Lanka, kinship care is commonly practiced informally, where children are temporarily placed with a relative or friend for a short duration of time, and on some occasions for extended periods of time<sup>18</sup>. The data related to kinship care in Sri Lanka has been difficult to attain due to the informal nature of this arrangement. It is important to officially recognize kinship care as part of the package of alternative care options for progress, tracking and monitoring purposes. Some children in the Justice System are appointed a “fit person” to care for them with a small financial provision, through the Children and Young Person's Ordinance (CYPO). In practice, in most cases the fit person is someone related to the child, either relative or extended family member

although the law provides for a non-relative to be appointed as a “fit-person”. Officials are reluctant to place a child with a non-related person as a system for formalizing the mechanism to identify and support non-related persons for this purpose is not in place. Consequently, in practice, this formal arrangement resembles kinship care. However, the majority of children placed in voluntary children's homes come under the provisions of the Orphanages Ordinance, which does not provide for foster care or a “fit-person” type alternative. There is a need to clarify the aim and definition of the fit person provision in order to streamline it within the alternative care services.

<sup>14</sup> Better Care Network (2014). New York, USA.

<http://www.bettercarenetwork.org/toolkit/glossary-of-key-terms>. Accessed 3<sup>rd</sup> December 2017.

<sup>15</sup> UN General Assembly (2010) Guidelines for the Alternative Care of Children resolution/adopted by the General Assembly, 24 February 2010, A/RES/64/142 <http://www.refworld.org/docid/4c3acd162.html> Accessed September 1<sup>st</sup> 2017.

<sup>16</sup> Centre for Excellence for Looked After Children (2012). MOVING FORWARD: Implementing the Guidelines for the Alternative Care of Children, Scotland.

<sup>17</sup> Convention on the Rights of the Child (1989). G.A res.44/25, annex, 44 U.N. GAOR Supp. (No.49) at 167, U.N. Doc A/44/49.

<sup>18</sup> Centre for Excellence for Looked After Children (2012). MOVING FORWARD: Implementing the Guidelines for the Alternative Care of Children, Scotland.

<sup>19</sup> Children and Young Persons Ordinance



### 5.3.2 Foster Care

Foster care is defined as care provided by authorized couples or individuals in their own homes for a fee. Long-term foster care can meet the needs of a specialized group of children for whom family-care is provided for many years, even up to adulthood where adoption is not a viable option due to various reasons<sup>20</sup>. Global evidence shows that application of foster care has not necessarily brought better welfare to children deprived of parental care. Moreover, there are concerns about the cultural and traditional appropriateness of the foster care in Sri Lanka. Nonetheless, emergency foster care has been proven as a successful model in other parts of the world, to help children and families in crises as a provisional and temporary support mechanism.

### 5.4 Family-like Care

Family-like care refers to alternative care settings, which are outside of a child's biological, or extended family environments. All residential care settings are considered 'family-like' care<sup>21</sup>. The policy acknowledges that some children may require residential care temporarily, as it may be the most suitable option in certain situations. The goal of family-like care should be to provide care in autonomous small-groups under conditions that resemble a family environment.

Sri Lanka has several types of residential facilities including Emergency Care Centers, Voluntary Homes, Safe Places, Private Boarding Houses, hostels, Certified

Schools, Detention Centers, Group Homes, Remand Homes, Counselling Centers and Respite Care facilities.

## 5.5 Others Services and Mechanisms

### 5.5.1 Adoption

Adoption is a process whereby a person assumes the parenting of another, usually a child, from that person's biological or legal parent or parents, and, in so doing, permanently transfers all rights and responsibilities, along with filiation, from the biological parent or parents. Orphaned or abandoned children can be adopted under the provisions of the Adoption of Children Ordinance. Domestic adoptions are more prevalent than international adoptions, and is more preferable in line with the child's right to her ethnic, culture and linguistic inheritance and each province varies in their processing time of adoption requests. Some provinces have long waiting lists of potential adoptive parents but do not have any children suitable for adoption to make an effective match while other provinces have short waiting lists and less processing time of cases. There is a strong need to research the underlying causes for delays in the domestic adoption process and procedures and address the existing barriers in line with the best interests of child principle.

### 5.5.2 Subsidized day-care

Day care is a social support service designed to provide parents or guardians with respite and an opportunity for better quality of life, including employment. Subsidized day-care is usually available to vulnerable

families at a minimal cost. There is subsidized day-care available in Sri Lanka offered by state and non-state agencies.

### 5.5.3 Afterschool Programme

Afterschool programme is a community-based social support provision, which offers children a safe place after school to build life skills and complete homework. After-school programmes are an added support to help low-income families. Currently, the Government facilitates children's clubs at the district, divisional and village levels, but it is not available across the country<sup>22</sup>. Some non-governmental organizations (NGOs) also operate afterschool programmes, but there are shortages in providing consistently good quality support.

---

<sup>20</sup> Centre for Excellence for Looked After Children (2012). MOVING FORWARD: Implementing the Guidelines for the Alternative Care of Children, Scotland.

<sup>21</sup> Ibid

<sup>22</sup> Walker D, Bandara, I, De Silva, S (2016). Child Protection System of Sri Lanka, Mapping Report – Final Draft

### 6.1. Prevention

This section refers to measures that must be taken to prevent the need for alternative care based on the application of the 'necessity principle,' specially to combat the factors that contribute to long-term placements in institutions.

- 6.1.1 Establish a risk-mapping system to identify vulnerable children who are at risk of separation from their families.
- 6.1.2 Ensure that all relevant government officials and staff are trained on how to identify and prevent abuse, neglect, exploitation and abandonment of children as well as making appropriate and efficient referrals to competent bodies.
- 6.1.3 Provide and promote economic and social support programmes that are aimed at empowering parents to live with dignity in adequate living conditions especially focussing on parents at risk of leaving their children in institutional care for employment.
- 6.1.4 Strengthen school education system to ensure adequate resources, staff, and education from pre-school to the 13<sup>th</sup> grade and to provide necessary support services to retain children in schools.

- 6.1.5 Promote the integration of life skills to school education to prevent bullying, abuse, inter-personal conflicts etc. in all schools.
- 6.1.6 Ensuring full range of Early Childhood development programmes for young children and their families.
- 6.1.7 Ensure that every new-born child is assessed for developmental delays within three-months of his or her birth and provided on-going assessments until at least 5-years of age so that early interventions can be provided.
- 6.1.8 Promote and support special programmes to support single and adolescent parents and their children including sexual and reproductive health programmes in schools and community and make efforts to reduce stigmatisation in society and provide every measure to allow them to live with their own family.
- 6.1.9 Design specific programmes for children living on the streets and their families to increase understanding of the risks associated with living on the streets and encourage alternative living arrangements including different income generating mechanisms.
- 6.1.10 Develop age-appropriate empowerment programmes and educational training for

children targeting drug and alcohol abuse, internet gaming and pornography, sex education and child abuse.

- 6.1.11 Ensure that all maternal benefits, maternal health care mechanisms and economic support schemes pay special attention to single mothers, mothers of poor households and mothers who are victims of domestic violence.
- 6.1.12 Design and implement programmes to encourage parents to explore family-based care such as kinship care in cases of or temporary family separation (e.g., labour migration).
- 6.1.13 Mapping of service providers both state and non-state and create a referral mechanism to promote co-ordination and collaboration among all relevant service providers.

### 6.2 Gatekeeping

Gatekeeping refers to ensuring that all measures are taken by all parties who are involved in the decision-making process of placing a child in institutional care to determine the most appropriate form of care adhering to the guiding principle of "Suitability", such as case management mechanism, assessment processes, and financial support.

- 6.2.1 Review and aligning existing National and Provincial laws, rules and regulations

governing children in vulnerable circumstances to strengthen gatekeeping mechanisms.

- 6.2.2 Revise and reform existing adoption laws to strengthen domestic adoption process.
- 6.2.3 Develop guidelines, national minimum standards that follow a multi-disciplinary approach as to the practical mechanisms (including family and child assessment and care planning), screening of children prior to intake, institutional set up and coordination structure of a formal gatekeeping system in the country on placement of children into alternative care arrangement.
- 6.2.4 Develop specific guidelines, to regulate issues of children who have been taken to another country and children who are brought into the country regardless of the reason, whether unaccompanied or separated children. ?????
- 6.2.5 Implement measures to prevent children from becoming refugees and or being separated from their primary caregivers, voluntarily or involuntarily, and provide short and long-term alternative care options as necessary in times of emergencies, including natural disasters.
- 6.2.6 Prioritise extending economic and social support to families where there is a risk of delaying the reintegration of a child back to her/his family and community.

Promote and support family-based care options such as kinship or emergency foster care in situations where a parent/guardian needs a temporary home for his or her child, until the parent is ready to fulfil their parental responsibilities and obligations

### 6.3. Children in alternative care systems

This section refers to establishing alternative care provisions that are applicable to children deprived of parental care and protection.

- 6.3.1 Strengthen mechanisms for rigorously monitoring existing laws that state that a child should not be accepted directly to any CCIs without a Court Order or the order from the Probation Commissioner.
- 6.3.2 Ensure that the informed consent of parents/guardians and children is obtained for each respective alternative care arrangement and that they are kept fully informed as to their situation and have access to relevant legal documents pertaining to their case.
- 6.3.3 Ensure that all children in alternative care systems have requisite legal documentation such as birth certificate, immunisation cards, identity card etc.
- 6.3.4 Ensure adherence to minimum standards with respect to the provision of alternative care arrangements.

- 6.3.5 Ensure that children in alternative care settings are provided with access to updated information about their biological families in the absence of contact, have opportunities to retain contact with their parents/guardians and have access to psychological support during separation due to prolonged hospitalisation or imprisonment of their parents.
- 6.3.6 Ensure that a parent/guardian or in situations where a parent/guardian is unavailable, a child's kin or court appointed guardian is required to agree to mandatory visits to his or her child in out-of-home placements at least once a month until reunification and to maintain regular contact with the child.
- 6.3.7 Empower relevant officials responsible for children to monitor, follow up and support the parent/guardian who is unable or unwilling to visit his or her child.
- 6.3.8 Ensure the use of provisions in the Act no: 4 of 2015 Assistance to and Protection of Victims of Crime and Witnesses Act where appropriate for children.
- 6.3.9 Give opportunities for children entering into alternative care arrangements to participate in the decision-making process, according to their evolving level of maturity. If a child is too young to make decisions, is orphaned or does not have kin for support, designate a court appointed advocate to help him or her make informed choices, instead of the decisions

being made by an alternative care provider. Decision-making should take place through a judicial, administrative or other adequate and recognised procedure, with legal safeguards, including, legal representation on behalf of a child.

- 6.3.10 Appoint a legal guardian to advocate for child-led households and make provisions for protection from exploitation and abuse; these children should be guaranteed access to health, housing, education and inheritance rights. Ensure support to siblings who choose to remain together in their own households after loss of their parents/guardians if the eldest sibling is both willing and capable of acting as the household head and that special attention is given to the head of households who are children and facilitate the retention of all rights to a childhood, including access to leisure and education facilities.
- 6.3.11 Provide support to unaccompanied, separated or trafficked children on a case by case basis, including those who have entered the country illegally by safeguarding them from being taken into custody or subjected to any penalties for breaching the law under compulsion. Mechanisms must be place to ensure that unaccompanied or separated children are not returned to their country of origin if there is a risk to the child's safety; to legalise guardianship to a child who is unaccompanied or separated from family and facilitate steps to trace the child's family

within parameters of safety; encourage cooperation between countries and relevant entities to ensure the uninterrupted provision of care.

- 6.3.12 Establish a mechanism for unobtrusively ensuring the safety and welfare of children in informal kinship care arrangements and for supervising such situations which may be risky for children.
- 6.3.13 Ensure the availability of good quality community based counselling services or short-term respite care to support where necessary the psychosocial and emotional needs of children and parents/guardians.
- 6.3.14 Establish mechanisms to ensure that children for whom informal care is provided by non-relatives or by relatives unfamiliar to the children or those residing far from a child's habitual place of residence, are protected from further abuse, neglect, child labour and exploitation, and are safeguarded against the use of drugs and medication without a medical evaluation and prescription from a qualified doctor or specialist and that a trusted and competent person is available for the child to notify any concerns he/she may have confidentially.
- 6.3.15 Ensure that all children in alternative care systems, including those who are physically and mentally disabled have access to education and received comprehensive care such as counselling, speech, occupational

therapy and physical therapy to the extent possible with the goal of reintegration in line with national policies on disabilities.

- 6.3.16 Ensure that in instances where children have to be placed in temporary alternative care such as fit person, interim adoption order or foster care etc. prior to be moved to a more permanent situation the temporary alternative care should be for the shortest possible time.
- 6.3.17 Give special attention to the support and care of single and adolescent parents and their children regardless of whether they are born out of wedlock and make effort to reduce stigmatisation in society; provide every measure to allow them to live with their own families and that adolescent parents have the same rights both as parents and as children including measures to ensure that all pregnant adolescents are guaranteed uninterrupted education and access to health education and care.
- 6.3.18 Promote the empowerment of adolescents in alternative care settings through the provision of educational programmes on abuse issues, reproductive health, and STD's, to prepare them to fulfil responsibilities as adults.
- 6.3.19 Ensure to keep siblings together as much as possible .To strengthen this mechanism the following measures are proposed. Such as educating the judges, facilitating contact among



siblings placed in different child care institutions / care placements, improving infrastructure facilities to accommodate siblings of both gender, introduce new law to keep siblings together unless not in their best interest.

- 6.3.20 Ensure the capacity building of caregivers in Child Care institutions on children in alternative care system

## 6.4 Children in contact or conflict with the law

This section refers to ensuring the safety and protection of all children under 18 years of age who are in contact or conflict with the law. This involves securing the rights and freedoms of a child and considering family- and community-based services (including rehabilitation) as alternatives to detention and deprivation of freedom. It considers establishing a diversion system to prevent children's unnecessary contact with the justice system.

- 6.4.1 Expedite the adoption of the Children's Judicial Protection and Juvenile Justice Bill.
- 6.4.2 Develop specific guidelines to support consistent practice of the diversion of children from the criminal justice system using sentencing options in CYPO, Section 114 of the Code of Criminal Procedure Code Act No. 15 of 1979, and the Mediation Boards Act No. 72 of 1988.
- 6.4.3 Reintroduce in all applicable instances, the role of a Mediation Board especially when

children are accused of petty thefts, truancy and minor misdemeanours.

- 6.4.4 Encourage the use of Probation of Offenders Ordinance for community based rehabilitation through Probation Orders instead of being sentenced to remand homes and certified schools for 3 years and beyond.
- 6.4.5 Promote the utilisation of information management systems and databases to track and monitor children within the justice system.
- 6.4.6 Extend gatekeeping processes to the judiciary and further strengthen the assessment, care planning, family support and review processes for children in contact with the law.
- 6.4.7 Establish a Juvenile Assessment Board to assess a child in conflict with the law for the suitability of a placement.
- 6.4.8 Strengthen existing systems to safeguard children from further trauma by preventing them from having to repeat their case history multiple times to various personnel.
- 6.4.9 Initiate reform for children who were victimised in their homes and provide opportunities to continue to live in their familiar environment whether in the same house or at a relative, to the extent possible if the safety of a child and emotional wellbeing is guaranteed.

- 6.4.10 Advocate for the removal and stringent prosecution of the perpetrator wherein the abuser does not continue to live in the same environment as the victim and provide financial and employment support to the family if the sole provider of the household is the perpetrator.
- 6.4.11 Advocate with the Judicial Services Commission to promote the concept that institutionalisation of a child should be a last resort and to promote and prioritise the diversion of children from the formal justice process.
- 6.4.12 Ensure that all cases of children entering into the juvenile justice system are reviewed every 3 months and that all certified schools, remand homes, and detention homes are down-sized and divided into smaller, manageable units with family-like environments for specialised care.
- 6.4.13 Revise sentencing procedures and rehabilitation services for children in conflict with the law and have not qualified for community-based rehabilitation and minimise sentences to institutional correctional services as much as possible and establish mechanism for reviewing cases every quarter for all children who are convicted of offenses.
- 6.4.14 Ensure that all children in contact with the law are provided with adequate resources

and protection from risk of victimisation or re-victimisation.

- 6.4.15 Ensure that the process of removing children from families against their will is conducted by competent authorities in line with relevant procedures, laws and under judicial review.
- 6.4.16 Enable the judiciary, probation officers, case workers, officers in governmental institutions, and law enforcement officials to work in a multi-disciplinary team to provide the best option of care for a child in contact with the law.
- 6.4.17 Initiate the establishment of Children's Magistrate's Court in every province and curtail the processing time of court hearings including establishing child-friendly environments at existing courts when dealing with cases that involve children.
- 6.4.18 Ensure that victims and juvenile offenders who require temporary family-like residential care are separated and not housed in the same facilities.
- 6.4.19 Ensure dignity and self-worth of the child by the smooth and prompt transfer of a child either awaiting a court order or with a court order to a safe house, transit care or other family like small-sized residential facility by non-uniformed personnel from the time of arrest to placement.
- 6.4.20 Ensure protection from re-victimisation by preventing a child from being kept overnight

at a police station, juvenile observation centre, or adult remand even temporarily, but be taken to a government paediatric hospital unit, a safe place, designated temporary home or an emergency shelter nearby temporarily until a court hearing. This includes children in conflict with the law arrested after hours or on the weekends when court is not in session.

- 6.4.21 Ensure that children are provided with child friendly transportation facilities when taken to and from courts.
- 6.4.22 Establish fully equipped temporary care transitional safe homes in all 9 provinces near a respective court house when possible that are open 24 hours a day.
- 6.4.23 Ensure that a child of a prisoner under 5-years of age whether born in remand or brought by his or her mother due to her conviction, is given a choice regarding his or her living arrangements and if the child remains with the parent to ensure that the necessary child care

services and facilities are provided in a child friendly environment with attention to the best interests of the child.

## **6.5. Reunification and Reintegration**

This section focuses on children who have been removed from their families to ensure their safety and is based on the principle that the first goal is to reunite

and reintegrate them with their families as soon as possible. Family reunification is a process by which the guiding principle shall be in the best interests of the child; it is the process of returning of a child from temporary out-of-home care to his or her family of origin.

- 6.5.1 Maintain a database of reunifications/ reintegration of children and perform annual reviews of progress for all leaving alternative care settings.
- 6.5.2 Consider and plan systematically for family reunification from the moment of being placed in alternative care including comprehensive assessments that focuses on the issues precipitating placement, family history, relationships, the parents' health and emotional functioning, and the suitability of the community environment. This should include a care plan for reunification/ reintegration specifying the role of each responsible party/duty-bearer in each care plan.
- 6.5.3 Reduce issues of adjustment by ensuring that children in institutional care are adequately socialised and have opportunities for interacting with community and society.
- 6.5.4 Strengthen the assessment process and home-study guidelines for readiness and safety checks of a child's home prior to reintegration incorporating up-to-date information enabling transparent decision

making to assess whether the reunification is sustainable, stable and in the best interests of a child.

- 6.5.5 Take steps to include and engage the family in the planning and selection of services and in the assessment of progress wherever deemed possible ensuring that alternative care providers make continuous preparations for reintegration of children with the advice of a multidisciplinary team, case notes, assessments and in consultation with the child, family, and care providers.
- 6.5.6 Provide appropriate services and supports that are responsive to the complex needs of the child and family in the process of reunification including as appropriate therapeutic care, economic welfare and/ or addressing a variety of reasons that led to alternate care reflecting both family needs and the child's best interest.
- 6.5.7 Consider and ensure special provisions like land and housing to children who are orphaned and are ready for reintegration.
- 6.5.8 Facilitate family tracing and reunification of children who have been abandoned and who desire to find their families.
- 6.5.9 Ensure that the community is included, educated and empowered to support children who are being reintegrated.
- 6.5.10 Provide regular supervision during and after the reintegration process to assist a child to

adjust during the transition process taking into consideration his or her developmental age, medical history, special needs, safety, and evolving capacities and supporting care-givers through follow-up mechanisms to facilitate transition,

- 6.5.11 Facilitate reintegration of children with a previous history of drug and alcohol addiction providing outpatient rehabilitation and follow-up services in the community.
- 6.5.12 Ensure that 18-year-olds are prepared for leaving a care setting with an aftercare plan and are allowed access to a network of peers, caregivers, and service providers in both the state and non-State sectors for additional support including provision of education and vocational training, job placement, housing and access to psychosocial, legal and health services, together with appropriate financial and emotional support during integration with special services for those with disabilities and special needs.

## **6.6 Legal reforms, policy guidelines and minimum standards**

This section refers to the legal reforms, policy guidelines and minimum standards that need to be developed and established ensuring the highest quality of alternative care services and providers by initiating the required legal reforms and establishing adequate policy guidelines for developing criteria and minimum standards for developing standards of

services including recruiting, training, and resourcing staff.

- 6.5.1 Develop guidelines to ensure that assessments, monitoring and follow up of alternative care arrangements and that a multi-disciplinary approach is adhered to at all times.
- 6.5.2 Review, revise and develop guidelines and monitoring standards for the formal monitoring and enforcing of standards for all alternative care arrangements and allocate sufficient resources for this process.
- 6.5.3 Review all existing laws, minimum standards and guidelines related to alternative care policies and align with this policy and develop new standards and guidelines where necessary in particular to accommodate different forms of alternative care.
- 6.5.4 Develop guidelines for monitoring the allocation of human and financial resources for providing adequate training and support to all staff with first contact to a parent/ guardian seeking out of home placements for his or her child.
- 6.5.5 Develop guidelines on ethics and best practices in child protection work.
- 6.5.6 Develop, support and promote a government-accredited training programme for the in-service personnel of the institutions and agencies providing child care.

- 6.5.7 Develop and propose practical policy solutions to recognize social worker/child protection work as a professional category cadre in the current public service.
- 6.5.8 Develop guidelines and standards for maintaining databases on children including provisions to protect privacy and confidentiality of all concerned.
- 6.5.9 Develop guidelines and standards for entities caring for children to adopt policies and procedures favouring information-sharing and networking between each of them to optimize their care and ensure that such networking protects the privacy and confidentiality of each child.
- 6.5.10 Develop guidelines to ensure that all alternative care settings adhere to child care licensing regulations and do not allow a child to be subjected to behavioural management techniques that are punishable by law and implement a standardised behaviour management system focused on redirection and positive reinforcement.
- 6.5.11 Develop guidelines for ensuring that all adults who come into contact with children in alternative care settings including donors and volunteers go through a vigorous screening processes prior to any contact with the children.
- 6.5.12 Establish regular and timely audits of all funding sources for children in vulnerable conditions, ensuring that alternative care providers are subjected to adequate inspection and safety checks.
- 6.5.13 Provide a strong security system to ensure the safety of children in all residential alternative care settings.
- 6.5.14 Prepare and train all alternative care providers to correctly respond to children with intellectual and physical disabilities, HIV/AIDS, and other communicable illness and in the case of emergencies.
- 6.5.15 Ensure that alternative care facilities providing residential care remain small and cater to the best interests of a child, preferably near the child's community if safety is not a concern.





## Section 7

# Institutional framework, monitoring and review system

In order to realise the policy directions contained in this document, it is necessary to establish an institutional framework to monitor and review the implementation of this policy. Since the policy directions range from legal and policy reform to specific interventions, one of the tasks of the body responsible for monitoring and reviewing the policy will be to develop a specific Action Plan. This Action Plan should contain timelines, division of responsibilities, financial and human resources, and a monitoring plan.

It is recommended that a Task Force on the Implementation of the Alternative Care Policy or similar high-powered body be established to monitor the implementation of the policy. Task Force should be empowered and sufficiently resources to ensure that the Action Plan is implemented effectively. It is recommended that the following be included in the Task Force:

1. Commissioner, Department of Probation and Child Care Services
2. Chairperson, National Child Protection Authority
3. Member, Ministry of Justice
4. Member, Ministry of Women and Child Affairs
5. Senior Probation Officer
6. Provincial Commissioners of Probation and Child Care Services

7. Three representatives from non-state child rights/child protection services
8. Lawyer with a background in child rights/child protection services

### 7.1 Responsibilities of the Task Force

- Develop the Action Plan for Alternative Care Policy Implementation.
- Monitor the implementation of Action Plan.
- Identify, review and revise relevant policies, laws, guidelines and standards as identified in the policy and Action Plan.
- Lobby with government and non-governmental agencies for resources to implement policy.
- Advocate on behalf of the policy at national and provincial level.
- Periodically review policy and revise accordingly.



## List of abbreviation

- ❖ **ADVOCACY** - the act of directly representing or defending another to protect them or advance their cause.
- ❖ **ASSESSMENT** - the gathering of information and the process of closely examining problems and strengths of a client or client system and sorting that information using formal and informal tools and techniques for effective intervention planning.
- ❖ **CAREGIVER** - an individual, including but not limited to a biological parent, kin, foster parent, or head of a household, who attends to the needs of a child and those who provide care and protection in the institutional setting.
- ❖ **CHILD** - any person under the age of 18, in line with the UN Convention on the Rights of the Child (Article 1).
- ❖ **CHILD PROTECTION** - the measures and structures to prevent and respond to abuse, neglect, exploitation and violence against children
- ❖ **CHILD ABUSE** - acts or omissions by a caregiver, guardian, person holding position of responsibility towards a child, institution, or process leading to actual or potential damage to health, development, and exposure to unnecessary suffering of a child and hindrances to his or her safe and healthy development into adulthood.
- ❖ **CASE MANAGEMENT** - is the process to assess, plan, monitor and provide intervention, referral or follow-up services on behalf of a client or client system.
- ❖ **CASE MANAGER** - typically defined as a Social worker whose role is to oversee and coordinate a client's services in keeping with the client's goals and needs.
- ❖ **CONFIDENTIALITY** - the ethical stance that a professional can only release or share information about a client with their prior consent
- ❖ **DE-INSTITUTIONALISATION** - Deinstitutionalization is the process of reforming child care systems and minimizing the institutionalization of children , finding new placements for children currently resident and setting up replacement services to support vulnerable families in non-institutional ways.
- ❖ **GATE-KEEPING** - the process of channelling children and families to appropriate services or care arrangements with the goal of limiting family separation and the number of inappropriate placements.
- ❖ **INSTITUTIONALISATION OF A CHILD** - to place a human-being in the care of an institution, such as those providing care for a child, or mentally ill person.
- ❖ **PSYCHOSOCIAL APPROACH** - in casework, it focuses on person-in-environment with an emphasis on the client-worker relationship; this is based on psychoanalytic theory,

**ANNEXURE 1:****Current Child Care Facilities in Sri Lanka**

**Approved Schools** - As of 2013, Sri Lanka has 2 Approved Schools which were established to shelter and provide psychological and physiological protection to orphaned, deserted, destitute and abused children. There is a great need for psychosocial support for children across every province in Sri Lanka. The need for Approved schools will be assessed and reform brought forth accordingly.

**Certified Schools** - Certified schools provide systematic vocational training to children that are admitted. The reasons for admission are theft/burglaries, disobedience to parents, sale and use of alcohol, in need of care and protection, attempted suicide and unclassified reasons. Most of the certified schools in Sri Lanka hold too many children with insufficient staff. These also will be carefully assessed and restructured into more child-friendly spaces.

**Detention Centres** - Detention Centres provide rehabilitation and shelter to children over eight years of age who are: beggars, caught in burglary, theft and the sale and use of alcohol, disobedient to parents, needing care and protection, and those sentenced for unclassified reasons. Most of the Detention Centre are not family-like in nature due to overcrowding and grouping of children with varied needs; some needing care protection grouped with those in conflict with the

law. Assessing Detention Centres for their need to exist and restructuring to more child-friendly ones is essential in the deinstitutionalisation process; as vital is to bring in reforms and address social issues to curtail children from admission to them in the first place.

**Group Homes** - Group homes are personalised homes typically housing 10-15 children with one or more staff in a house not their own in a less formal family-like environment. Usually, children with specialised needs are housed in these homes like for example victims of abuse or those with severe mental and physical disabilities requiring close monitoring and ongoing treatment. Also, group homes can be utilised by children needing more recovery time than a respite centre can offer or act like a transitional step above large residential facilities until reintegration. Typically, small family-style homes have house parents who care for children until they are ready for reunification with their nuclear families, kin, or adopted families. Sri Lanka has some group homes offering family-style living including those with house-mothers overseeing care.

**National Training and Counselling Centres for Children** - This facility provides care for the victims of abuse and the children in conflict with law. Further this centre offers social and emotional support and vocational trainings for children for a duration of six months.

**Private Boarding Houses** - Sri Lanka has various private boarding houses which are private homes that provide food and accommodation to children following primary and secondary education away from home. These boarding houses offer rooms on a single or shared basis and fees are charged monthly. In some instances, house owners provide rooms only and lodgers must make their own arrangements regarding meals- they either eat out or have meals delivered.

**Receiving Homes** - Government receiving homes are residential facilities that admit new-borns and children typically under 5 years of age. They provide for those who have been abandoned, orphaned and in need of care and protection. Sri Lanka has several receiving homes set up in various parts of the country. Many of them are overcrowded and understaffed leading to a lack in family-like care. Receiving homes will be closely assessed and restructured into family-like child friendly conditions as new-borns and toddlers require excessive one-on-one attention and care from a caregiver in their early years of life although not undermining the fact that all children require a considerable amount of attention.

**Remand Homes** - Remand homes are a type of detention home established to host children while their cases are being heard in court. Children are detained for the following reasons; suspicion of murder, attempted murder, arson, victims of abuse and sexual harassment, theft, fighting, disobedience,

straying, being stranded, alcohol and substance use, labour, for further investigation, and unclassified reasons. Remand homes also will be reformed and restructured as present models lack in family-like environments.

**Respite Centres** - Respite care facilities are available for children with complicated special needs such as physical disabilities, and mental and serious health needs. Some respite care facilities operate during the day where parents/ guardians drop off their children; others are for the short-term where children are provided with medical, emotional and social support. Therapy is offered in various disciplines such as counselling, speech, occupational, and physical therapy. Sri Lanka has few respite care centres and the need for these is great.

**Safe Houses** - Safe houses are accommodations and places of refuge for children who have pending court decisions and in Sri Lanka, most safe houses are operated by the State. Some safe houses provide shelter for both children and their mothers, some mother's being children themselves. Teen-mothers are provided with vocational training and education while awaiting transition back to a children's home or adoption; most do not return to their communities and families due to reasons such as their own parents remarrying, safety issues due to perpetrators remaining in their homes, stigma and ostracism from society. While acknowledging the necessity of safe houses, the existing facilities will be assessed and restructured as well.

**Volunteer Homes** - Volunteer homes house children typically over 5 years of age who need accommodation for various reasons such as poverty, abuse, neglect, orphan-hood, and family discord. Volunteer homes comprise the majority of CCI's in Sri Lanka and are managed by non-governmental stakeholders and monitored by the Department of Probation and Child Care Services. Like, receiving homes, most volunteer homes in Sri Lanka are not family-like in nature due to overcrowding and understaffing issues. Restructuring these is also an essential task in the deinstitutionalisation process.

## ANNEXURE 2:

### Legal Framework

There are many national legal protection mechanisms for vulnerable and at-risk children that are enshrined in the Constitution of Sri Lanka, the UN Convention on the Rights of the Child (CRC) and various domestic laws such as the Children and Young Persons Ordinance (CYPO) of 1939; Orphanages Ordinance of 1941; Adoption of Children Ordinance No. 24 of 1949; the National Child Protection Authority Act No. 50 of 1998; the National Disability Policy of 2003 and the Tsunami (Special Provisions) Act No. 16 of 2005. The Government has also drafted the Children's (Judicial Protection) Bill, which comprises several provisions with regards to the children who need care and protection of the State.

The Constitution recognises the importance of protecting children and families. The Directive Principles of "Government Policy and Fundamental

Duties" in Chapter VI include many provisions for children such as: Directive Principle 27 (12) which states "The Government shall recognize and protect the family as the basic unit of society" as well as Directive Principle 27 (13) stating "The Government shall promote with special care the interests of children and youth, to ensure their full development, physical, mental, moral, religious and social, and to protect them from exploitation and discrimination."

Directive Principle 27(2) states "the realization by all citizens of an adequate standard of living for themselves and their families, including adequate food, clothing and housing, the continuous improvement of living conditions and the full enjoyment of leisure and social and cultural opportunities."

The Constitution in chapter VI, principle 27(15) demonstrates respect for international laws and treaties and states that "The Government shall promote international peace, security and co-operation, and the establishment of a just and equitable international economic and social order and shall endeavour to foster respect for international law and treaty obligations in dealings among nations." Sri Lanka has ratified the Convention on the Rights of the Child (CRC). The preamble of the CRC includes multiple statements regarding the importance of preserving the family unit environment, and the specialised care of a child.

The National Plan of Action for Children (2016-2020) is currently the main strategic document of the Government for children and is guided by the CRC and



Sri Lanka's Children's Charter of 1992. Sri Lanka is one of the Pathfinder Countries under the Global Partnership to End Violence Against Children and this supports the country's desire to achieve Sustainable Development Goal 16.2. The objective of this initiative is to provide guidance to the national and provincial efforts to secure the rights and protection of all children in accordance with Sri Lanka's national and international obligations. The Plan of Action aims to facilitate every child's right to grow in a safe and enabling environment that promotes the child's best interests and full potential.

The CYPO includes many alternative care options for children who are in contact and conflict with the law. It makes provisions for the establishment of juvenile courts, supervision of juvenile offenders, and the protection of children and young people victims of abuse and exploitation.

The National Child Protection Authority Act No. 50 was enacted in 1998 where a National Child Protection Authority (NCPA) was established for the prevention of child abuse, treatment of victims of abuse and for monitoring purposes. Section 14 (J) gives the NCPA the authority to take necessary steps for the safety and protection of children involved in criminal proceedings and investigations.

Although Sri Lanka has established many laws, policies and administrative circulars regarding children in vulnerable circumstances, there are gaps within existing policy frameworks and in their effective implementation. Reforms are needed at many levels notably to the laws pertaining to the care and

protection of children in alternative settings away from parental care. The subject of child protection overlaps greatly with alternative care. When dealing with children, Sri Lanka has many governmental departments and ministries with various mandates, many of which overlap. Although Sri Lanka is currently practicing a multi-sectorial approach for the care and protection of children, further departmental collaboration is greatly needed. The Policy on the Alternative Care of Children takes into consideration these diverse mandates as comprehensive policy provisions have been outlined.

Moreover, the functions under the alternative care system in the country is a devolved subject, where the Provincial Governments and their respective agencies play more role. The provincial authorities develop and implement their own programming when it comes to child protection and alternative care. Therefore, it is critical to provide a national framework and guidance to ensure minimum quality and implementation standards across the country to ensure children's best interests are protected regardless of the place of residence. The Policy document aims to achieve this goal and support all actors at the national, provincial and district levels.

### ANNEXURE 3:

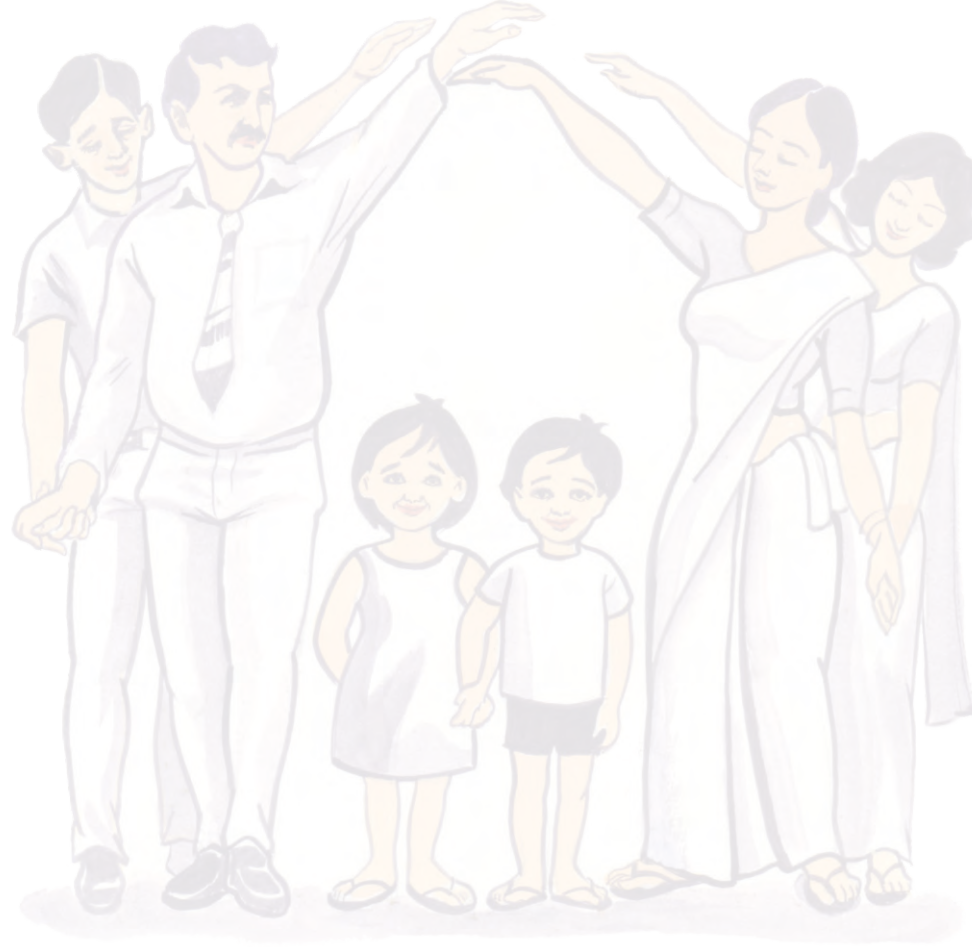
**Child's Socio Economic & Protection Rights Violation Matrix – Parents/Guardians as Duty Bearers**

Conditions Situations	Parents' low income; migration to other areas; leaving child/ adolescent without supervision, residing in isolated areas, walking long distances to school through lonely areas, involved in heavy domestic chore	Parents' status: married, single due to loss of life, abandonment, separation/ divorce, migration, in prison, With Partner: on the street, living together, other	Family member's mental/ physical disability/ HIV or AIDS Special needs of child	Child/ Non-National living with mother incarcerated/ remand until 5 years of age
Child's educational performance	Not having sufficient resources to keep up with grade levels, emotional instability	Dropping out of school, Not acquiring basic educational qualifications, early pregnancies	Not having appropriate support systems for child to cope, taking care of sick, seeks & brings income for family	Non availability of appropriate and adequate ECCD
Child living-in & exposure to family violence, given away for money	Child/ adolescent victim commercial sexual exploitation, living in fear, stress; child imitating perpetrator,	Child abuse of all forms; loitering; running away, conflicts with Parents teachers, peers, 'partners'	Child harassed/ abused/ Death caused by patient, child as patient harassed,	Observe violence inflicted on mother or other inmate, at-risk of abuse
Child negligence by parents/ guardians	Under nourishment; mental/ health/hygiene issues; prone to accidents; drug user/smoker	Child involved in hazardous & worst forms of employment – to support self/family	Deprived of Early Childhood Care and Development	Child deprived a life of freedom, delays in child's return to country of origin
Child's crowded living conditions	Lack of physical living space; unprotected sanitary facilities; intrusion of others/ no privacy	Prone to observe & experiment adult behaviors; intimidate peers with adult behaviors	Affected Adult/Child has no privacy, her/his dignity affected	Predisposed to observe adult behaviors, listen to adult arguments, no privacy
Child affected by Stigma	Parents' social standing, ethnicity, caste, livelihood, Ethnicity; Living on the Streets, Tribal/ Gypsey	Parent or Child has/ had been in violation of the law	Parents' or siblings' conditions have ostracized child	Social exclusion for being in prison/ born in prison & not having family to accept child (country of origin)



### **Child's Socio Economic and Protection Rights Violations – State as Duty Bearer**

Conditions Situations	Institutions' financial soundness	Staff competencies; Care levels, administration; staff/ child ratio	Facility's physical institutional standards: equipment; supplies;	Parents' preparedness to receive Child/ Care Leaver
Child's Educational performance	Not having sufficient education enhancing resources to positively affect child's educational performance	Behavioral issues/ exposure to socio /mental health of adults and other children/ youth, not clarified to child about visiting policies for parents/guardians	Child not having adequate & safe facilities electricity, water, plumbing;	Child/youth unqualified / no skills; not assertive; un prepared to live independently outside care setting
Child living in exposure to Institutional Violence	Child/ adolescent living in fear, stress; child imitating perpetrator,	Child exposed to Staff abuse/ corruption, exploitation. Child to child abuse/ bullying/ intimidation by adolescent gangs within institution	Exposed to theft, imitating behaviors of others,	Parents/Guardians continue to demonstrate previous behaviors that had led to child's institutionalization
Child neglect (by Institutional Staff & Board Members)	Under nourishment, skin diseases, personal hygiene issues, growth issues	Accidents/ death/ rape, child/ adolescent, not having adequate information of child & family, overlooking needed psychological care etc.	Neglect of facility up-keep; health hazards, prone to danger, running away	Parents' unpreparedness to receive child; Family's life circumstances as same as prior to child's institutionalization
Child's crowded living	In-sufficient funding to provide adequate space	Staff incompetent to manage children and facilities	Over capacity; lack of privacy for child; loss of personal belongings, noise; intrusions	Adjustment to family living & problematic due to learned behaviors at institution
Child affected by Stigma	Not having appropriate clothing/ adequate bedding supplies/	Staff adverse treatment , name calling, exposed to public ridicule – uniformed personnel accompanying child/ youth	Child exposed as 'a child in need' -receiving alms, charity	Social Exclusion by self or others due to institutionalization



Ministry of Woman and Child Affairs and Dry Zone Development  
Department of Probation and Child Care Services

බී කොටස, 03 වන මහල, සෙත්සිරිපාය II වන අදිරය, බත්තරමුල්ල, ශ්‍රී ලංකාව.  
“ඒ” பிரிவு, 03ம் மாடி, ஐஐம் தொகுதி, செத்சிரிபாய, பத்தரமுல்லை, இலங்கை.  
Wing B, 03<sup>rd</sup> Floor, Sethsiripaya Stage II, Battaramulla, Sri Lanka.  
වෙබ්/ இணையம் / Web: [www.probation.gov.lk](http://www.probation.gov.lk)