

GUIDELINES FOR THE ALTERNATIVE CARE OF CHILDREN

A TOOL FOR REVIEWING THE UNITED
NATIONS FRAMEWORK WITH CHILDREN

CHILDRENS' GUIDE

A Plain Language Version of
The "Guidelines for the Alternative Care of Children, A United Nations Framework."



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1. INTRODUCTION

'Millions of children around the world are without, or at risk of losing, parental care. They face significant challenges in their daily lives, which can affect them well into adulthood.'

Prof. Yanghee Lee, Chairperson of the United Nations Committee on the Rights of the Child

Children who cannot live with their parents should still grow up in a loving home and enjoy all their rights. The UN Committee on the Rights of the Child is so concerned that this does not happen that it has drawn up a set of Guidelines for the Alternative Care of Children. The Guidelines are intended to help everyone who is responsible for the care and well-being of children.

The Guidelines explain why it is necessary to make arrangements for some children to live away from their parents and which alternatives might be right for children in different situations.

The UN Committee on the Rights of the Child spent 5 years working on the Guidelines with governments, the UN Children's Fund (UNICEF), experts from different organisations and, importantly, young people who have experienced living away from their families.

It is important that children, young people, and those who work with them, understand what is supposed to happen, and how, if a child cannot live with his or her parents, for any reason. Children have a right to know what the Guidelines say and to give their opinions on them.

This booklet explains the main points in the Guidelines. It raises questions and suggests activities to help you think about the principles of alternative care and what these mean for children and families in different situations.

Each activity is designed for children to produce 'Key messages' that they would like to share with adults. You can use these in different ways – for example, to present at a conference, or to lobby government or other service providers to protect all the rights of all children, no matter where they are or who they live with.



2. PURPOSE OF THE GUIDELINES

The Guidelines are intended to help everyone who has a responsibility for looking after children living in difficult circumstances. They explain how children who cannot live with their parents, or risk being separated from them, should be looked after. If they are followed, they will help to make sure that all children enjoy the rights written down in the Convention on the Rights of the Child and other international laws.

The governments that have signed the Convention on the Rights of the Child agree that they should do everything possible so that children can be well cared for and protected by their parents or other close family members. If children are separated from their families, governments should do all they can to help bring them back together. If this is not possible, governments must help find the most suitable form of alternative care.

The Guidelines say that if children need alternative care, they should be placed in a family setting that promotes their 'full and harmonious development'.

3. GOVERNMENT MUST BUDGET FOR CHILDREN'S RIGHTS!

A child should only be removed from his or her family if there is no other way to protect and care for that child. When this happens, each child has his or her own needs and the type of care chosen must suit those needs. Children's needs change over time and so the type of care provided for them.

Governments have a duty to do all they can to keep families together and to help reunite them if they have to be separated for any reason.

Governments are supposed to put aside money and employ people to ensure the Guidelines for the Alternative Care of Children are implemented.

They may say that they want to do this but cannot afford to. For this reason, it is very important that children and young people, and those who care about them, should monitor their country's national budget. If your government claims that children are a priority but you see that money is not being spent on realising children's rights, speak out and demand changes!

Standing up for human rights is part of being a good citizen.



4. KEEPING FAMILIES TOGETHER

The family is the basic group in any society. Family groups differ across countries and cultures. They may be large groups made up of children, parents, grandparents and other relatives. They may be made up of only children and their own parents. They may be made up of children only, with older ones caring for young siblings.

It doesn't matter whether a family is large or small, or who is in it, as long as everyone is loved and cared for. Then the family is seen as the best place for the growth, well-being and protection of children. Children who do not receive the parental care they need are at special risk of being denied their rights and their dreams for the future.

Children should never be separated from their parents simply because of poverty. Governments are supposed to ensure that families have the support they need to provide proper care for children.

Only where your own family is unable, even with appropriate support, to provide adequate care, or if your family abandons you, then the government has a duty to make sure that you receive alternative care that meets your needs. This must provide for your safety, well-being and development, and respect who you are.

Any placement must be made in the 'best interests and rights of the child concerned'. For this to happen, you must be consulted and your views, about who you should live with, and where, must be taken into account when decisions are being made. You must receive all the information you need to form those views, in your preferred language.

Governments are supposed to put in place child welfare and protection policies designed to improve their alternative care provision. These must reflect the principles in the Guidelines:

They should help prevent separation of children from their parents.

They should ensure appropriate and culturally sensitive measures to help families overcome challenges, such as disabilities, drug and alcohol abuse, discrimination against families with indigenous or minority backgrounds, as well as those living in armed conflict regions or under foreign occupation.

They should provide appropriate care and protection for vulnerable children, such as:

- child victims of abuse and exploitation;
- abandoned children;
- children living on the street;
- children whose parents are not married;
- unaccompanied and separated children;
- displaced and refugee children;
- children of migrant workers;
- children of asylum-seekers; and
- children affected by HIV/AIDS and other serious illnesses.



Governments must make special efforts to stop discrimination against the child or parents, for any reason, including:

- Poverty;
- Ethnicity;
- Religion;
- Sex or gender;
- Disability;
- HIV/AIDS status;
- Any other circumstances that might cause a parent to give up or abandon a child.

5. CARE FOR CHILDREN DISPLACED FROM THEIR HOME COUNTRY

If a child is to be cared for outside his or her home country, whether for medical treatment, temporary hosting, respite care or any other reason, the governments concerned should ensure that specific standards are met in the selection of carers and the quality of care and follow-up, as well as the supervision and monitoring of the placement.

Unaccompanied or separated children already abroad should enjoy the same level of protection and care as nationals of the country concerned. Children should not be arrested solely for breaking immigration laws. Victims of trafficking should not be detained by the police or prosecuted for being forced to take part in unlawful activities.

As soon as an unaccompanied child is identified, a guardian or organisation should be made responsible for the child's care while his or her status is determined. When an unaccompanied or separated child is taken into care, all reasonable efforts should be made to trace his or her family and re-establish family ties, as long as this is in the best interests of the child. Authorities should obtain all available information to assess the child's risk and social and family conditions in his or her home country. Unaccompanied or separated children must not be sent home if their safety and security may be in danger or there are other reasons it is not in their best interests to go back; they should not return unless a parent, other relative, other adult caretaker, or authorised agency has agreed and is able to provide appropriate care and protection.

Those responsible for the welfare of an unaccompanied or separated child should help the child keep in touch with his or her family, unless this is against the child's wishes or not in his or her best interests.

Placement with a view to adoption, or the kafala system of care in Islamic law, should only be considered for an unaccompanied or separated child after efforts to find his or her parents, extended family or other carers have been exhausted.



6. CARE FOR CHILDREN DURING EMERGENCIES

People working with or on behalf of children without parental care in emergency situations are strongly encouraged to follow the Guidelines on alternative care.

Authorities should ensure that everyone involved in responding to unaccompanied or separated children is experienced and well-trained.

Apart from developing temporary and long-term family-based care for displaced children, they should assist in family tracing and reintegration efforts. Organisations and authorities should try to prevent the separation of children from their parents or primary caregivers in an emergency and should not encourage family separation by providing services and benefits to children alone rather than to families.

Communities should be supported to play an active role in monitoring and responding to care and protection issues facing children. Care within a child's own community, including fostering, should be encouraged.

7. SUPPORTING PARENTS TO CARE FOR CHILDREN

Many families need support to meet their responsibilities towards their children. The Guidelines go into detail about the policies governments are expected to have to prevent child abandonment and separation.

Services

These include providing birth registration, adequate housing, health, education and social welfare services, as well as fighting poverty, substance abuse, discrimination, stigma, violence, and sexual abuse.

Courts should take into account the best interests of the child when deciding whether to imprison an offender who is a sole caregiver and whether to remove children born in prison and to ensure that children remaining in custody with their parent receive adequate care and protection, and access to activities in the community.

Parenting skills

Governments should promote and strengthen both mothers' and fathers' ability to care for their children. They should work with civil society, religious leaders and the media to improve social protection measures, including: services to promote positive parent-child relationships, conflict resolution skills, income-generation opportunities, social assistance, and services for parents and children with disabilities.

Youth policies

Youth policies are needed to prepare future parents to make informed decisions about their sexual and reproductive health, as well as care services for single and adolescent



parents and their children. These should help both mothers and fathers to exercise their parental responsibilities and avoid pressure to give up their children.

Counselling

When a parent or legal guardian wishes to place a child in alternative care, for a short time or permanently, the government should ensure that the family receives counselling and social support to encourage and enable them to continue to care for the child. If this fails, the first step is to see whether other family members can take responsibility for the child, and whether this would be in the child's best interests. If not, efforts should be made to find a family placement within a reasonable period.

Informal fostering

Informal carers should be encouraged to notify the authorities that they are responsible for a child so that they and the child may receive any available financial and other support to promote the child's welfare and protection.

Child-headed households

Appropriate support and services should be available to siblings who have lost their parents or caregivers and wish to remain together, as long as the eldest sibling is willing and able to act as the household head.

Training

Specific training should be provided to teachers and others working with children, in order to help them to identify situations of abuse, neglect, exploitation or risk of abandonment and to refer such cases to people who can help.

8. WHAT IS ALTERNATIVE CARE?

'Alternative care' is any arrangement, formal or informal, temporary or permanent, for a child who is living away from his or her parents.

The Guidelines for providing alternative care all arise from 2 principles.

1. The principle of necessity. This means children should only be placed in alternative care if it is really necessary. It must be in the child's 'best interest'.
2. The principle of appropriateness. This means that children should only be placed in alternative care that suits their individual needs and situation.

Lack of income or resources, or conditions directly related to poverty, should never be the only justification for removing a child from parental care, or for preventing a child in alternative care from being reunited with his or her family. Such conditions are signs that the family needs support to meet its responsibilities.



If it is agreed that a child needs alternative care, there are other principles to follow. These include enabling the child to stay as close as possible to his/her usual place of residence, in order to keep in touch with his/her family, to minimise disruption to the child's life and to make it easier to reunite the family when the time comes.

Alternative care is intended to provide protection, well-being and stability while a permanent arrangement is made. It should ensure a child can exercise all their rights, including access to education, health and other services, the right to identity, freedom of religion or belief, language and protection of property and inheritance rights. The care arrangements should not separate children from their siblings unless there is a clear risk of abuse or other strong reason.

There are many kinds of alternative care but they are grouped into two main types:

Informal care – where other family members or people close to the children look after them. This is common in most countries. The Guidelines say that where this happens, governments still have a role to ensure their welfare and protection, with due respect for cultural, economic, gender and religious differences and practices that do not conflict with the rights and best interests of the child. Informal care may include siblings living in a child-headed household. In this case, the government is supposed to ensure the children have the support and protection of a legal guardian.

Formal care – where the government or a recognised child-care agency places a child in the care of adults who are not family members. Where this is necessary, it is usually the aim to provide a family setting as close as possible to the child's normal home environment. Use of residential care (such as a refugee transit camp, emergency shelter, children's home, place of safety and orphanage) is only considered where it is appropriate, necessary and in the best interests of the individual child concerned.

The Guidelines cover:

All children who are not in the overnight care of at least one of their parents. This is unless the children are staying voluntarily and informally with relatives or friends for reasons not connected with their parents' inability or unwillingness to provide adequate care;

Children without parental care who are outside their country of normal residence or are victims of an emergency. They may be 'Unaccompanied' (not cared for by another relative or responsible adult); or 'Separated' from their primary caregiver, even if accompanied by another relative.



They do not cover:

Children who are in custody as a result of being accused of or found to have broken the law, (they are covered by the United Nations Standard Minimum Rules for the Administration of Juvenile Justice and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty);

Children legally placed in the custody of adoptive parents.

However, any place responsible for the care of children (such as a boarding school, hospital, centre for children with mental and physical disabilities or other special needs, camp or workplace) is encouraged to make use of the Guidelines.

9. MAKING SURE CHILDREN GET THE RIGHT CARE

Informal care

Many children are cared for informally by extended family members or other adults in their community. The Guidelines say that governments should support these arrangements but also take steps to protect children in informal care from abuse, neglect, child labour and all other forms of exploitation.

Formal alternative care

The transfer of a child into alternative care should be done with utmost sensitivity, in a child-friendly manner, by specially trained personnel.

The Guidelines set out detailed and strict criteria for the placement of children in formal alternative care. These cover everything from health and safety to measures to protect all a child's basic rights, including equality and dignity. The Guidelines emphasise the importance of planning and preparing for a child to be reunited with his or her family.

If you are placed in alternative care, you still have the right to stay in contact with your family members and other people you are close to, such as friends, neighbours and previous carers. You have the right to keep in touch with your parents even if they are in prison or in hospital. If this is not possible, you still have the right to be kept informed about the situation of your family members.

All carers should encourage children and young people to make informed choices about their lives, taking account of acceptable risks and the child's age. Discipline must be positive and supportive. The Guidelines prohibit disciplinary measures that are cruel, inhuman or degrading, including keeping a child in closed or solitary confinement, or using any form of physical or psychological violence. No one should ever threaten to stop you seeing your family or other special people as a punishment.



Foster care

Foster care is one form of formal care. The Guidelines recommend that local foster carers should be identified who can provide children with care and protection while maintaining ties to their family, community and cultural group.

Special preparation, support and counselling services for foster carers should be made available. Carers should have the opportunity to make their voices heard and to influence policy.

Residential care

Facilities providing residential care should be small and organised around the rights and needs of the child, in a setting as close as possible to a family. Their objective should generally be to provide temporary care and to contribute actively to the child's family reintegration or, if this is not possible, to secure his/her stable care in an alternative family setting.

There should be enough carers in residential settings to allow individual attention and to give the child, where appropriate, the opportunity to bond with a specific carer.

Agencies, facilities and professionals involved in care provision should be monitored regularly, through reporting, scheduled and unannounced visits, and discussion with and observation of the staff and the children.

Support for aftercare

Aftercare is the period after a child leaves formal care. Throughout the period of care, facilities should equip the child with social and lifeskills to become self-reliant and to play a role in the community. The process of transition from care to aftercare should take into consideration the child's gender, age, maturity and circumstances. Children leaving care should be encouraged to take part in the planning of aftercare life. Children with special needs, such as disabilities, should have an appropriate support system. Aftercare should be prepared as early as possible, well before the child leaves.

10. DIFFERENT CHILDREN, SAME RIGHTS

Every child is unique and every child has the same rights in international law. Girls have the same rights as boys. Differently abled children, and those living with or affected by HIV/AIDS, or having any other special needs, have the same rights as other children.

Carers should protect the right of every child to develop through play and leisure activities, including with children and others in the local community. The specific safety, health, nutritional, developmental and other needs of babies and young children, including those with special needs, should be met in all care settings.



Children should be allowed to follow their religious and spiritual practices, and to choose whether to participate in religious services, religious education or counselling. No child should be encouraged or persuaded to change his/ her religion or belief during a care placement.

Children's right to privacy should be respected. This includes having appropriate facilities for hygiene and sanitary needs, respecting gender differences and interaction, and a safe and accessible space to keep personal possessions.

Alternative care facilities must protect all children against discrimination, abuse, abduction, trafficking, sale and all other forms of exploitation. At the same time, their movement and activities should not be restricted more than is absolutely necessary for their protection. Children in care should be offered access to someone they can trust and confide in. They should also have a way of lodging complaints or concerns regarding their treatment or living conditions. Young people with previous care experience should be involved in this process, due weight being given to their opinions.

All staff employed by agencies and facilities to care for children should be trained to deal appropriately with challenging behaviour, including conflict resolution techniques and means to prevent acts of harm or self-harm. Carers should be prepared to respond to children with special needs, notably those living with HIV/AIDS or other chronic physical or mental illnesses, and children with physical or mental disabilities. Staff should also be sensitive to cultural, social, gender and religious differences.

11. REUNITING FAMILIES

Local and international agencies providing emergency relief have to have clear policies on providing holistic support to families and communities, and care and protection of children.

In any emergency, it must be a priority to identify, register and document unaccompanied or separated children as quickly as possible, to increase the chances of reuniting them with family members.

Information about children should only be shared among agencies for the purpose of tracing, family reintegration and care. Nothing should be done that may hinder eventual family reintegration, such as adoption, change of name, or movement to places far from the family's likely location, until all tracing efforts have been exhausted.

People and agencies engaged in tracing family members or caregivers should work together, using the same systems, wherever possible. They should ensure that the child and others concerned will not be endangered by their actions. They must be certain that the child and family members wish to be reunited.



If a child cannot be reunited with his or her family, long-term options should be considered, such as adoption, foster care, residential care, including group homes, or other supervised living arrangements.

Promoting family reintegration

After a child has been placed in alternative care, the team responsible for the placement should consult regularly with the child, the family and the alternative caregiver to decide whether it is possible and in the best interests of the child, for the child to go back to live with his or her family. If it is agreed that this can happen, it should be 'a gradual and supervised process, accompanied by follow-up and support measures that take account of the child's age, needs and evolving capacities, as well as the cause of the separation'.

The Guidelines say that children and their families must be actively involved in decision-making and planning for reunification.

12. GOVERNMENT'S DUTY TO CHILDREN – WHO IS RESPONSIBLE

Governments have to do all they can to enable children to stay with their parents. They also have to make laws, policies and plans for emergency, short-term and long-term (permanent) alternative care. They must set aside money to put those plans into practice. They must make sure that the people and organisations looking after children in alternative care are fit to do so. That means those people must have the right knowledge, skills and attitudes towards children.

All agencies and facilities offering alternative care services must be registered by their country's social welfare services. Every professional involved in childcare placements should sign a code of conduct that defines their role. There must be clear procedures for reporting allegations of misconduct.

Facilities must keep complete, up-to-date, confidential and secure records for children in care. These should include all details of the care placement of each child, together with any identity documents and other personal information. Information on the child's family should be included in the file, which should follow the child throughout the alternative care period. The records could be made available to the child, as well as to the parents or guardians, within the limits of the child's right to privacy and confidentiality.

The best place of care for a child is generally in a home with his or her own parents, siblings and other significant family members. If a child has to be separated from the family, the aim should always be to change the circumstances so that it possible and desirable for the child to live with his or her family again. Government must monitor all placements to review the quality of care and the need for it to continue.



Who decides that a child needs alternative care?

Lots of different people may be involved in ensuring that decisions about alternative care are made in the best interests of the child. These may include social workers, officers of the court, family members and lawyers.

At every stage, you must be consulted, according to your capacity to understand what is happening, along with your parents or legal guardians. You must have the opportunity and support to state in court what you think about the placement decision.

What is best for each child?

Every child's situation and needs have to be properly and carefully assessed before a placement is made. Assessment must consider the child's immediate safety and well-being, as well as his or her longer term care and development, and should cover the child's personal characteristics, ethnic, cultural, linguistic and religious background, family and social environment, medical history and any special needs.

The assessment will take account of the child's attachment to his/her parents and siblings, the family's capacity to safeguard the child's well-being and development and the desirability of the child remaining within his or her community and country.

Any temporary placement must be reviewed - preferably at least every three months, taking into account notably the child's personal development and any changing needs, developments in his/her family environment, and the adequacy and necessity of the current placement. The child should be prepared in advance for all changes of care settings.



13. HOW TO GET MORE INFORMATION

Here are the addresses of some websites where you can get more information about children's rights and organisations that protect and promote the rights of children.

United Nations Convention on the Rights of the Child (UNCRC):

- Full text of the Convention: <http://www2.ohchr.org/english/law/crc.htm>
- Child friendly English version: http://www.unicef.org/voy/media/rights_leaflet.pdf
- Other language versions: http://www.unicef.org/voy/explore/rights/explore_2781.html

African Charter on the Rights and Welfare of the Child

<http://www.africa-union.org/child/home.htm>

Council of Europe Recommendation Rec (2005)5 on the rights of children living in residential institutions: <http://www.coe.int/familypolicy> (select 'children in residential institutions'; available in English, Russian, Greek, Polish, Estonian and Serbian)

Quality4Children Standards (Q4C) - <http://www.quality4children.info>

Council of Europe & SOS Children's Villages International: "Children and young people in care – Discover your rights": http://www.coe.int/t/transversalprojects/children/News/enfants%20institution/text%20flyer_en.asp

SOS Children's Villages International: <http://www.sos-childrensvillages.org>

International Social Service: <http://www.iss-ssi.org/>

NGO Group for the Convention on the Rights of the Child: <http://www.childrightsnet.org/>

Child Rights Information Network (CRIN): <http://www.crin.org>

Better Care Network: <http://crin.org/bcn/>

United Nations Children's Fund (UNICEF): <http://www.unicef.org>

Better Care Network & UNICEF Manual for the Measurement of Indicators for Children in Formal Care: <http://www.crin.org/BCN/details.asp?id=19618&themeID=1001&topicID=1011>

