

Guidelines for the Alternative Care of Children

Policy Brief, November 2012

Background

The Guidelines for the Alternative Care of Children (hereafter referred to as “The Guidelines”)¹ were endorsed by the United Nations (UN) General Assembly on the 20th of November 2009 in honor of the 20th anniversary of the UN Convention on the Rights of the Child (CRC) with the aim of further supporting the implementation of the CRC, the Universal Declaration of Human Rights, and other regional child rights instruments.

The CRC makes clear the importance of a family environment for children (preamble) and that it is the States’ responsibility to ensure alternative care for all children deprived of a family environment (Art 20).

However, it is less clear regarding the definition of the relationship between parental care and the child’s family environment; goals for alternative care; and the criteria for decisions of alternative care placements.

The Guidelines were designed to provide further details and additional information regarding these ‘missing pieces,’ targeting both policy and practice with specific regard to the **protection and well-being of children deprived of parental care or who are at risk of being so.**²

Save the Children, as part of the NGO Working Group on Children without Parental Care, played a key role in the development of the Guidelines as a tool to enhance the CRC and help governments and organizations to focus on the family and alternative care.

Save the Children has been using the CRC and the Guidelines as policy frameworks for training of its own staff and partners. Regional and national trainings for Save the Children staff and their partners on Children without Appropriate Care in Armenia, Bosnia and Herzegovina, Ethiopia, Indonesia, Kenya, Laos, Senegal, and Sri Lanka have worked to increase the capacity and understanding around negative effects of institutionalization, importance of the prevention of separation, promoting family-based care options, and increased familiarity with the Guidelines.

The Guidelines are now being referred to in the concluding observations of the Committee on the Rights of the Child. At the end of 2010, the 53rd session of the Committee recommended to Norway “the State party take into account the Guidelines for the Alternative Care of Children contained in United Nations General Assembly Resolution A/RES/64/142 adopted on 20 November 2009” and to El Salvador that it “revise its legislation and programs on alternative care, taking into account the Guidelines for the Alternative Care of Children.”

Goals of the Guidelines

The Guidelines provide an international child-rights framework, based upon principles related to the protection of children without appropriate care or at-risk of being so. The Goals of the Guidelines are to:

- Support efforts to keep children in, or return them to, the care of their family³ or, only after failing this, to find another appropriate and permanent solution.
- Ensure that, in cases where permanent solutions are not possible or are not in the best interests of the child, the most suitable forms of alternative care are identified and provided in a way that promotes the child's full and harmonious development.
- Assist and encourage Governments to better implement their responsibilities and obligations to protect children bearing in mind the economic, social and cultural conditions families are facing.
- Guide policies, decisions and activities related to social protection and child welfare in both the public and the private sectors, including civil society.

Some figures

The issue of children without appropriate care⁵ is a global problem and an urgent response is needed to ensure children's rights to protection, development, health, education and well-being.

UNICEF estimates that 145 million children have lost one or both parents; and 15 million of them due to AIDS⁶.

An estimated 2 million live in institutional⁷ care;⁸ 80% of them having one living parent.⁹

Millions more are at-risk for being separated from their parents for reasons including poverty, disease, natural disaster, armed conflict, disability and discrimination.

Guiding Principles set forth in the Guidelines

- **Necessity:** The principle asks the question, *is the placement or intervention necessary for the healthy and full development of the child?* and focuses on: the best interests of the child, consultation with the family and child; provision of family support as a primary intervention, strengthening families and reintegration as the prioritized options, preventing avoidable relinquishment, addressing negative factors that lead to separation, ensuring gate keeping⁴ measures, and regulating care.
- **Appropriateness:** The principle is used to help outline the conditions in which alternative care (formal and informal) is considered for a child including standards, human resources, access to basic services, contact with parents and family, and protection from violence and exploitation, encouraging States to look at care options with regard to each child's specific and individual needs, on a case-by-case basis, providing for individual situations and characteristics, and promoting long-term, permanent solutions asking, *is the placement or intervention appropriate for this child?*
- **Best Interest of the Child and the right to participate:** A central focus on the best interests of the child for every decision, importance on individual needs and rights, freedom from discrimination (including child/family status¹⁰) and consideration for the safety and security of all children, as well as the right and role of each child to participate in decisions according to age, evolving capacities, language and context.
- **Preference for family-based care:** The vital and irreplaceable role of a family environment for the growth, well-being and protection of children, stating clearly that all efforts should be directed to keeping children in or returning them to their family (as per the preamble of the CRC).

Referencing a growing evidence-base demonstrating the negative effects of institutionalization on the development of children, the Guidelines state that the use of residential care only be utilized in cases of critical necessity and advocate for family-based care for all children, with special attention to children below three years of age.

- **Right to protective, caring environment:** Every child's right, regardless of gender, socio-economic status, ability, ethnic background, to live in a supportive, protective and caring environment that promotes his/her full potential, and recognizing the risk for children with inadequate or no parental care.
- **Poverty is not a reason for separation:** The Guidelines make clear that financial or material poverty are not conditions for separation of a child from his/her family, and that all other child rights must be protected in the case of alternative care placement, including access to education and health, right to identity, freedom of religion, etc.
- The **State's mandated responsibility to protect the rights of the child** and **ensure alternative care**, including support and preventative measures to help support families in their ability to care for and protect their children.

In **Zimbabwe**, the Guidelines have helped to highlight the importance of preserving and strengthening families, including extended family, kin and even child-headed households. Traditionally vulnerable children were taken into the care of extended family. The weakening of family structures due primarily to the HIV/AIDS epidemic and resulting economic realities has resulted in many children in need of alternative care. By defining family beyond nuclear and helping families to become stronger, children can again be cared for in traditional ways. The National Action Plan for Orphans and Vulnerable Children includes national responses targeted at strengthening families.

The Guidelines have been important to child protection reform in many countries. A number of **Key Concepts** provide the framework and help to define ways of improving the lives of children without appropriate care and those at-risk for being separated from their parents.

The Guidelines allow for **contextualization** of the principles by providing governments with a framework upon which to develop systems, policies and service standards that are consistent with the economic, social, and cultural values and conditions of the country.

The **primacy of family care** and importance **preserving families** weave throughout the Guidelines both as principles and as key concepts.

Core principles for alternative care

- Keeping the child as close as possible to their community of origin
- Permanency as a key goal
- Removal from family as a temporary measure of last resort
- Protection from abuse, neglect and exploitation
- Importance of keeping siblings together
- Recognition of formal care and informal care by relatives or others as valuable care options

Forms of informal and formal alternative care recognised in the Guidelines

- kinship care or family-based¹ care within extended family or with close friends;
- foster care or family care in authorized family settings;
- other forms of family-based or family-like care placements;
- residential care in non-family groups settings (example: emergency or transit care centers);
- supervised independent living situations.

Why Family-Based Care – What Evidence & the Guidelines Say About Institutions

One of the biggest myths is that children in orphanages are there because they have no parents. This is not the case. Most are there because their parents simply can't afford to feed, clothe and educate them. For governments and donors, placing children in institutions is often seen as the most straightforward solution. And it's a way of sweeping out of sight the poorest and most discriminated-against children with the biggest problems.¹¹

Research dating back to the 1940's¹² has repeatedly proven institutional care is detrimental to children's growth and development regardless of their age.¹³

The Alternative Childcare Guidelines of **Ethiopia** were revised¹⁴ to provide minimum conditions for the provision of alternative care services including community-based care, reunification and reintegration, foster care, adoption and institutional care. They provide regulation based on minimum standards, child and community participation, and lines of responsibility for monitoring and supervising placements.¹⁵

In **Liberia**, the Guidelines have been used to promote discourse regarding poverty and outlining social protection measures aimed at preventing children from being deprived of parental care based on socio-economic factors. The discussion is allowing for child welfare reform within the wider social and human development policy framework. The **African Union** Committee of Experts on the Rights and Welfare of the Child directly cites the CRC, the Guidelines, and the African Charter on the Rights and Welfare of the Child as the broad international child rights instruments upon which to discuss the phenomenon of children living on the street.¹⁶ The 21st edition of the Day of the African Child (June 16, 2011) focused on this theme, and brought to light the importance of government, community and family roles in protection of this 'super' vulnerable group of children in the African context.¹⁷

It is so compelling that presentation of the Guidelines would be incomplete without discussion of the negative effects of institutionalization on children's health, development and well-being. Studies show that children in institutions face immense, often overwhelming challenges in all areas development.¹⁸ **Children under three years old face the risk of permanent damage to their physical and mental development.**¹⁹

Long-term impacts, even after children are placed from institutions into permanent family care, include the underdevelopment of critical areas of the brain related to attention, activity, learning, memory, emotional regulation, and behavior problems.²⁰

Institutional care, while sometimes giving the appearance of being financially viable, is widely shown to be far more expensive compared to family-based care.²¹ Investment in institutions tends to divert limited and vital resources away from family-based alternatives and from social services to vulnerable families aimed at preventing family separation. Alternative care based on kinship or foster families is far more cost-effective, especially when considering the longer term effects of a child.²²

In the **Middle East**, where historically institutional care has been the primary protection system, Save the Children finds the Guidelines to be a key vehicle for debate and discourse around care for children without appropriate care. The principles of necessity and appropriateness are a key part of this debate as the region works to contextualize appropriate alternative care options within Sharia Law. In **Egypt**, discussion focuses on improving conditions within institutions through working with the Government to adopt national standards of care for child care institutions. In **Jordan**, the Guidelines are being used to create and strengthen alternative care models for all children, including refugee children. In **Yemen**, Save the Children is using the Guidelines to help strengthening the kafala system.

While the costs of creating an effective system of support for family-based care does present challenges to governments, the investment is offset by the reduction in long-term costs to the State as more children have the opportunity to develop into productive, healthy and less dependent adults care.²³

The Guidelines are clear that **institutions should be avoided whenever possible**, regulated, monitored, and transformed into family-based care alternatives. In cases where children out of necessity are placed in institutional care it must be time limited, meet the specific needs of the individual child, and follow quality standards. States' effort to improve institutions must not take resources from family support and development of family-based alternatives.

The Guidelines set forth several articles related to the protection and care of two special populations of vulnerable children: **care provision for children outside their country of habitual residence** and **care in emergency situations**.

The first outlines care for children abroad including situations ranging from children sent for medical treatment, temporary or respite care, as well as unaccompanied or separated children and those trafficked or at risk for trafficking.²⁴

In **Georgia**, the Guidelines have been critical in moving child protection reform forward in the best interest of children. The Government is committed to deinstitutionalization, having closed since 2009 18 child caring institutions. Five are still open but in the process of being closed. The goal, supported by legislation and policies including the National Children's Action Plan, minimum standards and gate keeping mechanisms, is to fully replace institutional-based care systems with family reintegration, foster care and small group homes. Save the Children continues to use the Guidelines as an advocacy tool to build common language, understanding and consensus around ending the use of institutions.

The latter outlines provisions for situations such as natural or man-made disasters, armed conflicts and/or foreign occupation. Here the Guidelines highlight the importance of child-focused interventions that prevent family separation, temporary and long-term family-based care, prohibition of new institutional care, and efforts toward family tracing and reintegration. They are referenced in the new Minimum Standards for Child Protection in Humanitarian Action, which reads "family separation is prevented and responded to and unaccompanied children are care for and protected according to their needs and best interests."²⁵

Save the Children was one of the first organizations on the ground in **Indonesia** after the devastating earthquake and tsunami in 2004. The need for more long-term child protection support system became apparent after emergency needs were taken care of. Institutional care was the primary mode of care for vulnerable children. The draft Guidelines provided a framework in which to increase awareness and being reference for legal reform of the detriments of institutional care and benefits of family-based alternative care. Save the Children's work on child welfare reform included: building an evidence-base; advocacy, policy and legal recommendations, capacity building, reallocation of resources, and models of family-based services. Today the Children's Directorate Strategy under Ministry of Social Affairs incorporates a shift to family-based care through the adoption of the National Standard of Care for Child Welfare Organization in 2011 and Government Regulation draft on care, guardianship and adoption (ongoing process). Both regulations are linked to the Guidelines. The government has also started in 2012 a reallocation of funds to support children in families and gradually the fund for institutions will be reduced. Save the Children also provides professional social work training and practicum on Permanency Planning and Good Parenting through partnership with seven schools of social work and with supports from the Hunter College in New York for Permanency Planning and from an international consultant from University of Manitoba in Canada for Good Parenting²⁶.

Recommendations for Policy & Practice

Save the Children has been involved at the international level in the development of the Guidelines and at the country level in efforts to ensure use of the Guidelines as a framework for reform. **Save the Children strongly supports the Guidelines and urge countries to use them as a reference and tool for legislation and policy reform.** At the practice level, Save the Children urges governments and organizations to make use of the Guidelines to focus on family environments for children without appropriate care, strengthening and empowering children, families and communities.

- First and foremost, all stakeholders - governments, donors, civil society, private sector and communities must **commit to and invest in families** for the wellbeing of children, working to prevent separation of children from their families, supporting families to care for their children, and seeking alternative family-based care for children for whom alternative care is absolutely necessary and appropriate.
- All stakeholders – governments, donors, civil society, private sector and communities must recognize the importance of **the best interest of the child** as a primary consideration, indeed the cornerstone of family policy: protecting the safety and integrity of children in families and in alternative care; ensuring that children are consulted and involved in decisions relevant to them; and recognizing that families come in many types (biological, extended, child-headed households, single parents, etc.) that need to be equally supported.
- Save the Children calls on governments to utilize the Guidelines to improve care and protection through **strengthening and reforming national child protection systems** including strategies, laws and policies, workforce development, and resource allocation; and developing minimum standards, systems for tracking, and strong monitoring mechanisms so that safe, nurturing and family-based care alternatives for children can be provided with the utmost quality.

- Governments are urged to implement policies and practices that tackle the underlying **poverty, social exclusion and discrimination** that cause millions of children to become unnecessarily separated from their families. Policies and practices must link protection and welfare with access to health, education, social welfare, etc. Social protection systems should become child sensitive in order to mitigate the effects of poverty on families, strengthen families in their child care role, and enhance access to basic services for the poorest and most marginalized, including at-risk children living outside family care.

Italy experienced tremendous influx of children on the move²⁷ in 2008 from from Sub-Saharan Countries and Egypt and again in 2011 from Northern Africa. Most landed on the island of Lampedusa where they were placed in closed migrant detention centers. Using the Guidelines as a framework for dialogue and advocacy, Save the Children worked with the Interior Ministry and the Ministry of Welfare to ensure that all basic needs were met, minimum standards of care were adhered to, and children were swiftly moved to children's homes on the mainland. This included guaranteeing children access to legal assistance, protection services, play and recreation, education and health. Although a temporary solution was identified, and Save the Children's requests were met in the short period, Save the Children has engaged in advocacy work based on the Guidelines as a tool, to guarantee that a national protection system is developed and long term solutions are identified for each child in his/her best interest.

Immediately following the destructive 2010 earthquake in **Haiti**, the Geneva-based NGO Working Group on Children without Parental Care, of which Save the Children is an active member, issued a statement calling for the humanitarian response to uphold recommendations presented in the Guidelines giving particular attention to care for children in emergencies, preventing family separation, systems for tracking and reunification, and promotion of family based care.

- Governments, civil society, the faith community, local communities and families themselves must work to understand the **impact of institutions** on children and take measures to **prevent the institutionalization** of children, particularly those under the age of three, and to deinstitutionalize children, committing to transformation to family-based systems of welfare and protection.
- Children, parents, alternative care providers and communities must be **actively engaged in the dialogue** and empowered and enabled to be a part of the development of child protection systems and the decision-making processes that directly affect them.
- Children without appropriate care must be an urgent priority for both **development and emergency** settings, for governments and for humanitarian organizations.
- Governments and organizations alike must continue efforts to define and identify systems of informal care, recognizing its importance in embracing vulnerable children and including data collection and mechanisms to ensure the safety and well being of children in care.

Useful Links & For Further Reading

UN Documents & Conventions

- UN Convention on the Rights of the Child is available in full and summary, and in several languages, and child/family versions at <http://www.unicef.org/crc/>
- UN Universal Declaration of Human Rights can be accessed at <http://www.un-documents.net/a3r217a.htm>
- UN General Assembly, Guidelines for the Alternative Care of Children available in multiple languages, child, family and professional versions at <http://www.crin.org/bcn/initiatives.asp>
- NGO Working Group on children without parental care can be found at <http://www.childrightsnet.org>
- UN Guidelines for the Alternative Care of Children - practitioner guides and reports publically available at <http://www.relaf.org>
- Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption may be accessed at http://www.hcch.net/index_en.php?act=text.display&tid=45
- Assessment Tool for the Implementation of the Guidelines made available at <http://www.sos-childrensvillages.org/What-we-do/Child-Care/Quality-in-Care/Advocating-Quality-Care/Documents/120416-Final-asseessment-tool-EN.pdf>.
- Child's Rights Information Network (CRIN) and Better Care Network (BCN) <http://www.crin.org/> and <http://www.crin.org/bcn/>
- Child Protection Working Group. (2012). Minimum Standards for Child Protection in Humanitarian Action: Implementation Strategy 2012-2014 retrieved at <http://resourcecentre.savethechildren.se/node/6820>.

Country/Region Specific

- African Charter on the Rights and Welfare of the Child <http://www.africa-union.org/child/home.htm>
- Extensive country-specific information, examples and resources and tracking of use of the Guidelines found at Better Care Network <http://www.crin.org/bcn/>

Institutional Care / Deinstitutionalization / Family-Based Care

Available at <http://www.crin.org>

- A Child's Place is within the Family: Transforming Residential Institutions for Children and Developing Sustainable Alternatives, UNICEF (2010)
- Families not Orphanages, UNICEF (2010)
- Mis-Guided Kindness: Making the Right Decisions for Children in Emergencies, Save the Children (2010)
- Manual for the Measurement of Indicators for Children in Formal Care, UNICEF (2009)

Available at Save the Children Resource Center <http://resourcecentre.savethechildren.se/>

- A Last Resort: Growing Concern about Children in Residential Care (2003)
- A Sense of Belonging (2006)
- Children without Appropriate Care Fact Sheet (2010)
- Update on Children without Appropriate Care (2011)
- Keeping Children Out of Harmful Institutions: Why we should be investing in family-based care (2009)
- The Risk of Harm to Young Children in Institutional Care (2009)
- Kinship Care: Providing positive and safe care for children living away from home (2007)
- Child Protection Initiative: Building rights-based national child protection systems - A concept paper to support Save the Children's Work (2010)
- Children without Appropriate Care Standard Advocacy Messages

¹ UN General Assembly, Guidelines for the Alternative Care of Children (2010) <http://www.crin.org/bcn/initiatives.asp>

² SOS Children's Villages International & International Social Services. (2009). Guidelines for the Alternative Care of Children: A United Nations Framework. Retrieval at <http://www.sos-childrensvillages.org/About-us/Publications/Pages/Guidelines-for-the-Alternative-Care-of-Children.aspx>

³ The term family does not only refer to biological parents but also includes extended family, adoptive families, temporary foster care families, etc..

⁴ Gate keeping includes policies, procedures and services to restrict the flow of children into institutions and contribute to their onward progression back to families or substitute families from Evans, P. (2009). Improving Gatekeeping Functions of Child Protection Systems. Presented at 2nd Child Protection Forum for Central Asia on Child Care system reform.

⁵ For Save the Children, *Children without Appropriate Care* are children who are not receiving suitable, continuous and quality care, nurture and guidance at a physical, emotional, social and psychological level from either their families or from other primary caregivers who are meant to replace the family environment and who are responsible for their well being and development. This definition includes children within their own families, children in alternative care, and children who have become separated, either voluntarily or involuntarily, from their families, including children on the move. It also refers to children in developed, developing, fragile and emergency contexts. The Guidelines use also terms '*Children Deprived of Parental Care*' and '*Children without Parental Care*'

⁶ UNICEF. (2009). Children and AIDS: Third Stocktaking Report, 2008. Retrieved at http://www.unicef.org/publications/files/CATSR_EN_11202008.pdf

⁷ Save the Children avoids the term "orphanages" due to the confusion it implies that children in care are "orphans" (i.e. without living parents.) *Institutional Care* refers to care provided in any non-family group setting including orphanages, small groups homes, transit/emergency centers, children's homes, children's villages, boarding schools and other complexes. Save the Children. (2009). Keeping Children Out of Harmful Institutions: Why we should be investing in family-based care

<http://www.savethechildren.org.se/3067>

⁸ UNICEF Progress for Children, A Report Card on Child Protection, September 2008, p. 19

⁹ Save the Children. (2009). Keeping Children Out of Harmful Institutions: Why we should be investing in family-based care. Retrieved at <http://www.savethechildren.org.se/3067>

¹⁰ Discrimination includes poverty, ethnicity, religion, sex, ability, health status (ex. HIV/AIDS), birth out of wedlock, socioeconomic status, etc. (articles 6, 8 &9)

¹¹ Save the Children. (2009). Keeping Children Out of Harmful Institutions: Why we should be investing in family-based care. Retrieved at <http://www.savethechildren.org.se/3067>

¹² Williamson, J. & Aaron Greenburg for Better Care Network/UNICEF. (2010). Families not Orphanages. Retrieval at <http://www.crin.org/docs/FamiliesNotOrphanages.pdf>

¹³ Ibid

¹⁴ The revision was funded by the Italian Development Cooperation

¹⁵ Family Health International, Children's Investment Fund and UNICEF (2010). Improving Care Options for Children Through Understanding Institutional Child Care and Factors Driving Institutionalization. Family Health International. Retrieval at: www.fhi.org/en/CountryProfiles/Ethiopia/res_eth_institutional_care.htm

¹⁶ African Commission on Human and People's Rights, African Charter on the Rights and Welfare of the Child OAU Doc. CAB/LEG/24.9/49, (1990). Retrieved www.achpr.org/english/info/child_en.html

-
- ¹⁷ African Committee of Experts on the Rights and Welfare of the Child, African Union (2011), Concept Note on the 21st edition of the Day of the African Child – Street Children. www.childsrightrights.org
- ¹⁸ Ibid Williamson, J., Browne, K. for Save the Children & Better Care Network. (2009). The Risk of Harm to Young Children in Institutional Care retrieved at <http://www.crin.org/bcn/>, Nelson, C.A., et. al. (2007). Cognitive recovery in socially deprived young children: The Bucharest Early Intervention Project. *Science*, 318, 5858, pgs. 1937 – 1940, Johnson, D. E. (2000). Medical and developmental sequelae of early childhood institutionalization in Eastern European adoptees. In Nelson, Charles A. (Ed).
- ¹⁹ Ibid Browne, K.
- ²⁰ McCall, R. (2012). The Development and Care of Institutionally Reared Children from The Leiden Conference on the Development and Care of Children without Permanent Parents. *Child Development Perspectives: v6nr2*.
- ²¹ Dunn, A., Jareg, E. & Webb, D. for Save the Children. (2003). A Last Resort: Growing Concern About Children in Residential Care. Available at <http://www.crin.org/bcn/details.asp?id=9026&themeID=1002&topicID=1017> and UNICEF with USAID and UNAIDS. (2004). Children on the brink 2004: A joint report on orphan estimates and program strategies. Washington, D.C.: The Synergy Project.
- ²² Ibid Williamson, J.
- ²³ Save the Children. (2009). Keeping Children Out of Harmful Institutions: Why we should be investing in family-based care <http://www.savethechildren.org.se/3067>
- ²⁴ In the Guidelines the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption is cited as providing important protection in this area. Retrievable at http://www.hcch.net/index_en.php?act=text.display&tid=45
- ²⁵ Child Protection Working Group (2012). Minimum Standards for Child Protection in Humanitarian Action retrieved at <http://resourcecentre.savethechildren.se/node/6820>
- ²⁶ Changing the Paradigm: Save the Children’s Work to Strengthen the Child Protection System in Indonesia (2012) – *report in draft form*
- ²⁷ Save the Children defines children on the move are those children moving for a variety of reasons, voluntary or involuntary within or between countries, with or without their parents or other primary caregivers, and whose movement might place them at risk (or at an increased risk) of inadequate care, economic or sexual exploitation, abuse, neglect or violence.

Child Protection Initiative
Save the Children
November 2012

This policy brief can be found here:
<http://resourcecentre.savethechildren.se/node/6892>

For more information:
resourcecentre.savethechildren.se
or contact: cpj@rb.se

