

# No Way Home

## *The Exploitation and Abuse of Children in Ukraine's Orphanages*

A report by



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## Preface: Goals and Methods

At a time when Ukraine is fighting a war, undergoing political turmoil and experiencing economic hardship, it is essential to ensure protection of the basic human rights of the country's most vulnerable populations, including children with and without disabilities who are living in its orphanages, psychiatric facilities, boarding schools, and medical and social care centers. Immediate action is needed to ensure the safety of institutionalized children in border areas where the breakdown of law and order leaves children vulnerable to neglect, exploitation and trafficking. In addition, throughout Ukraine, new economic hardships have placed increased pressures on families who may be forced to give up their children to orphanages because they lack resources to keep their children at home. No less urgent, this report identifies abusive conditions, exploitation and trafficking taking place throughout Ukraine's orphanages, psychiatric facilities, and other institutions where children are placed. In all these locations, children with disabilities are especially at-risk.

Immediate action by law enforcement is needed to stop trafficking from institutions. Health and social welfare authorities at the national and local levels must also take immediate action to protect the lives and health of children in the country's institutions – and to prevent new placements. *No Way Home* identifies the most pressing concerns facing children in institutions and identifies steps that Ukraine can take to ensure enforcement of basic international human rights, including protections under the European Convention on Human Rights (ECHR), the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and the Convention on the Rights of the Child (CRC). This report pays special attention to the requirements of the UN Convention on the Rights of Persons with Disabilities (CRPD), newly ratified by Ukraine, which establishes the country's obligations toward its children and adults with disabilities.

Article 19 of the CRPD establishes that *all* persons with disabilities no matter what their level of disability have a right “to full inclusion and participation in the community.” Article 23(4) makes clear that “[i]n no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.” The Convention on the Rights of the Child has long held that all children have a right to grow up in a family, and the CRPD clarifies that it is no longer acceptable to place children with disabilities in institutions as a “last resort” when no community placements are available. The UN “Guidelines for the Alternative Care of Children” makes clear that, to implement these rights, all governments must adopt a deinstitutionalization strategy for orphanages and all residential care facilities “which will allow for their progressive elimination.”

In addition to examining Ukraine's obligations under international law, this report evaluates the impact of international donors and describes their obligations under international law.

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In addition to examining the obligations of the government of Ukraine, this report describes the role and responsibility of international donors. The CRPD includes an innovative new provision, article 32, requiring international donors and technical assistance agencies to promote the “purpose and objectives” of the Convention. **No Way Home** is intended to hold international donors accountable for the impact of their support and recommends action they can take to promote enforcement of the rights of institutionalized children.

International experience has shown that crisis response and international humanitarian aid can have a long-term and perhaps unexpected impact on underfunded social service systems. When children are abandoned to crumbling or abusive institutions, it is tempting for governments or foreign donors to rebuild or refurbish institutions. Disability Rights International (DRI) has documented such a response in ***Left Behind: The Exclusion of Children and Adults with Disabilities from Reform and Rights Protection in the Republic of Georgia (2013)***. After Georgia’s war with Russia, the United States invested 1 billion US dollars into helping the Republic of Georgia, and funds were used to rebuild institutions for children and adults with disabilities. When institutions are rebuilt, they must be maintained, and such resources are then unavailable to programs serving families who are desperately in need of support to keep their children at home. **No Way Home** draws on this international experience to suggest steps that Ukraine and international donors can take to ensure that humanitarian relief and development funds are used in a manner that protects rights and promotes full community integration.

This report is part of DRI’s strategic goal to bring an end to the segregation of people with disabilities worldwide and it is a part of our ***Worldwide Campaign to End Institutionalization of Children***. DRI maintains that to bring an end to the segregation of people with disabilities, it is necessary for countries around the world to downsize and abolish their system of orphanages. Institutional placement is particularly pernicious for children with disabilities, who will become more disabled over time and may remain in an institution for a lifetime, being shuttled from orphanage to social care facility to nursing home.

But institutions are also dangerous for children without disabilities. Whether or not children have a disability at the time of their placement, it is now well established by the research literature that orphanage placement can lead to irreversible psychological damage in all children. All children need the love and care of a family, and if they do not learn to form emotional attachments at an early age, they may lose this ability as they grow older. In addition, studies have shown that children of any age will acquire increased developmental disabilities the longer they are separated from society in congregate care. Institutions and segregated services can continue to cause damage even among young and older adults. Psychiatric and sociological studies have documented the loss of social functioning and “learned helplessness” created by institutional placement.

International law prohibits institutionalization for children with and without disabilities and this protection from segregation follows the individual through their entire life. Thus,

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all programs serving children must also consider the needs of children with disabilities. Social policies that address one group of children or adults without seeing the dangers of segregation as a whole are likely to be inadequate and may be doomed to failure.

Community-based services and protections, as well as support for families to prevent new placements, must be urgently established. In taking a strong stand against any form of institutionalization, DRI cautions Ukraine or any government against merely dumping children or adults with disabilities on the streets or leaving them without supportive care in the community. Where abuse and neglect exists in the family, extended kinship care or substitute family programs must allow for safe alternatives for children. There is extensive literature showing how to develop such programs, which have proven successful throughout the world regardless of levels of economic development. DRI's detailed recommendations can help guide Ukraine's planning and reform efforts.

This report is not intended to place blame on any individual, policy-maker, or institutional staff. We recognize that institutional staff work under the most difficult of circumstances and could not continue to work except out of their personal and professional dedication to the care of individuals they serve. DRI would like to thank the many public officials, professionals, and staff who contributed their time and insight to our work.

This work is the product of hundreds of interviews and site visits to 33 institutions for children and adults conducted over a three-year period from 2012 through 2015. While DRI visited a small number of institutions for adults, we recognize that there is a vast system of services for adults that we have not been able to cover in this report. We recognize that Ukraine is a very large country and conditions may vary from place to place. There is no doubt that there are valuable programs – as well as serious abuses – that we were not able to include in our report. In recent years, numerous model programs have been established to provide support to people with disabilities in the community, particularly family support and early intervention programs designed to prevent institutionalization. We have profiled a few of these new models in our report. It is our hope that this report will support the extension of these programs to help prevent future orphanage placement.

In every institution we visited, we attempted to be as thorough as we could in understanding the human rights situation of people living in the facility. We asked to visit all parts of the institutions. We interviewed institutional authorities, staff and residents. Pseudonyms have been used for all institution residents and orphanage graduates referenced throughout the report.

During each site visit, DRI brought a video camera to record observations. It is our experience that photo and video documentation is tremendously helpful in corroborating our observations and helping the public understand the reality of life in an institution.

## Executive Summary

***No Way Home: The Exploitation and Abuse of Children in Ukraine's Orphanages*** is a product of a three-year investigation by Disability Rights International (DRI) into the egregious human rights violations perpetrated against nearly 100,000 children – with and without disabilities – who are left to grow up segregated from society in orphanages, psychiatric facilities, residential boarding schools, and other institutions. For children with disabilities, orphanages are a gateway to lifelong institutionalization in abusive adult facilities.

The lack of adequate care and protection in institutions exposes children to life-threatening dangers. Children with disabilities are especially at risk – often relegated to the most barren and filthy sections of institutions, left without activities, stimulation or human contact. Many children are left in physical restraints or kept in beds and cribs where their arms and legs atrophy from disuse. Separated from society and without the protection of family and friends, children are subject to beatings, rape, and other forms of routine violence. In almost every institution we visited, DRI investigators observed children subject to forced labor. Without adequate government oversight, children detained in institutions are at-risk of sexual abuse, trafficking for sex, pornography, or sale of bodily organs.

Ukraine has ratified international treaties that recognize the right of children to grow up with families and as part of society. While most countries are downsizing institutions and moving toward community integration, Ukraine has rebuilt most of its institutions. International donors bear responsibility for helping Ukraine perpetuate its system of segregating children. A new World Bank program dedicated to helping reform Ukraine's orphanage system discriminates against children with disabilities and rebuilds institutions for this population.

UNICEF has estimated that 82,000 children live in Ukraine's institutions while other NGOs and Ukraine advocacy groups quote numbers upwards of 200,000. Ukraine's government offers widely varying numbers. The truth is that no one really knows. In practice, there is little or no oversight or protections for children placed in institutions.

Children caught in the crossfire of the current armed conflict in Eastern Ukraine are especially at risk of disappearing from institutions or being abandoned in them. Some children from war-torn areas have been moved to institutions in other parts of Ukraine. Others have disappeared over porous borders into Russia or into temporary camps outside of Odessa, Kharkiv, Dnipropetrovsk, and other cities. After staff fled orphanages and other institutions, some children have been taken in by whoever will have them. The thousands of children remaining in institutions in the war-zone are especially at risk of being trafficked.

***No Way Home*** documents serious and life-threatening human rights abuses faced by institutionalized children throughout all of Ukraine – both before and during the present conflict.

## Trafficking of children

***Trafficking and sexual slavery are inextricably linked to conflict [...]. Trafficking flourishes in environments created by the breakdown of law and order, police functions and border controls during conflict [...].*** – United Nations Development Fund for Women

Institutionalized children with disabilities are most likely to be completely cut off from families and their community and become targets for exploitation. According to the US State Department, ***“homeless children or children in orphanages continued to be particularly vulnerable to trafficking in Ukraine.”***

***Children would go into the woods behind the building and disappear [...]. Every year ten to twelve children went missing. We thought it was rapists and murderers. Some children were found dead but nothing was done.*** – Testimony of Maria, an orphanage graduate

Anti-trafficking organizations have reported to DRI that children are systematically trafficked within or outside of institutions for forced labor, sex, or bodily organs. DRI's investigation confirmed these concerns. Numerous former residents of orphanages reported that they observed the sexual exploitation of children inside facilities and after their release. In almost every institution visited by DRI investigators, we observed children and young adults forced to work without pay. At an orphanage for children with disabilities in the Vinnitsya oblast, for example, residents told DRI investigators that every child is forced to work and staff beat them if they do not comply.

***Ukraine is a source, transit and destination country for men, women and children subjected to forced labor and sex trafficking [...].*** – US State Department 2014 Trafficking in Persons Report (TIP Report)

***The doctors told my mother that they will take the child to be an organ donor in other countries and they will get money for her [...]. If you listen to everybody here in a similar situation, you could just cry buckets.*** – Mother of a child with Down syndrome

With no family or social ties in the community and few if any skills to face the world, those who graduate from orphanages at age sixteen are highly susceptible to being trafficked, entering the sex industry, or living on the streets.<sup>1</sup> Boys and girls leaving institutions may show no outward signs of disability, but the psychological damage of growing up in a congregate setting takes its emotional toll. Substance abuse, criminal activity, and suicide are common amongst this population.

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<sup>1</sup> Children deemed to have moderate to severe disabilities in orphanages will never leave institutional care in most cases. However, children with no disabilities or mild disabilities will often “graduate” from orphanages around age 16 with minimal or no support in transitioning to independent living.



***I beg. I look for metal in basements. I am lonely and afraid I will be raped [...]. [My friends who graduated from orphanages] are sex workers and they collect metal. But most of them are dead.*** – Orphanage graduate living on the streets of Odessa.

***Graduates of orphanages are particularly vulnerable to many forms of human trafficking. They tend to be psychologically vulnerable and also ill-equipped to find alternate opportunities.*** – International Organization for Migration (IOM)

Without oversight, even well-meaning programs to help children in Ukraine’s institutions can be easily abused by traffickers seeking to obtain children. DRI interviewed a family in the United States who hosted two children from a Ukrainian orphanage for several weeks. The program never conducted background checks or visited the home of the hosts. While this family provided a safe home to stay, the children could have been sent to the home of a pedophile, trafficker or child pornography producer. There are dozens of such programs to bring children from orphanages abroad, or to allow volunteers to work within orphanages in Ukraine.

***There are no safeguards or background checks for volun-tourism. Nobody controls that.*** – La Strada, Ukraine

***Growing up in the institution we did not see many people from outside. The only people the director allows in the orphanage are those who offer money or aid.***  
– Recent graduate of orphanage

Based on our findings, DRI is concerned that Ukraine’s system of orphanages and institutions serves as a recruitment tool or “direct feeder” to find vulnerable children for sexual exploitation, organ harvesting, child pornography and forced labor. According to anti-trafficking organizations, sexual abuse in orphanages usually begins around the age of 13 and is most often instigated by staff of institutions. Numerous former residents of orphanages reported to DRI that they observed sexual exploitation of children inside facilities and after their release.

***My friend in the orphanage was raped, but police never came. I meet many orphans on the street who have escaped orphanages because the staff scare them.***

– Orphanage graduate from Odessa

***There’s huge sexual abuse within the orphanages. Even among children. Older children abuse younger children. Nobody is able to deal with this issue. So this is a push factor that gets children involved in sexual exploitation even before they grow up. They’re already used to the sexual abuse*** – Counter-trafficking program coordinator, International Organization for Migration (IOM)—Ukraine

***I was raped, and then I raped other boys who were younger. I don’t want to talk***

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*about it*— Orphanage graduate from Odessa

DRI spoke to one former resident of an orphanage in Odessa who told us that a brothel used to operate out of the orphanage's basement. Local journalists who interviewed residents of the orphanage when this brothel was exposed found that the children in the orphanage were coerced into having sex with men in exchange for clothes and other trinkets.

*They had fun there: skinny dipping, shouting, orgies. And all this under the windows of the boarding school dormitory [...]. All the five years that I spent in the orphanage, every day a call girl came to the sauna. They pleased their customers almost in front of our eyes.* – Former orphanage resident in Odessa

It was reported to DRI that girls from orphanages are especially vulnerable to trafficking for child pornography.

*There are people in Ukraine who help to find these children who are vulnerable for child pornography... of course the most vulnerable children are those from poor families, social orphans and kids in orphanages.* – La Strada, Ukraine

The danger of trafficking has been heightened by the war. There have been reports from separatist-controlled areas that staff abandoned children in institutions. According to the Kharkiv Institute for Social Research, the local rebel authorities in Krasnyi Luch issued a statement in February 2015 calling on neighbors to take children from institutions. **This statement has also served as notice to traffickers and pedophiles that children are available.**

*I am afraid of where they will put me.* – Orphan evacuee from war zone

Thousands of children are reportedly being placed in facilities out of the war zone, many cramped and overcrowded, where they are even more isolated. DRI interviewed a recent orphanage graduate with cerebral palsy who was evacuated out of an institution in the occupied territories. Without any form of community support available to him, he reported that the authorities will place him in a long-term facility for adults with disabilities. He may be placed in a facility hundreds of miles from anyone he knows.

Labor exploitation is the most common form of trafficking in Ukraine, according to the International Organization for Migration (IOM) 2014 status report. La Strada states that over the last two years, **internal labor trafficking has become “mainstream.”**

In nearly every orphanage and adult institution visited by DRI, investigators witnessed the exploitation of residents for labor. Forced labor was often called “rehabilitation” and “occupational training,” even though such activities are not part of any meaningful rehabilitation program. In most cases, directors admit that children with disabilities will never leave institutional care.

***The staff made us work on the farm to grow produce that they'd sell to make money. When people died they made us dig their graves. If we refused to work, they'd punish us by giving us drugs that made us feel bad.*** – Testimony of former resident of adult institution for people with disabilities

***In Andrey-Ivanovo institution the children were forced to work in the field from 6 am to 6 pm. Sometimes staff members took children home to help in the house and in the fields.*** – Orphanage graduate

DRI interviewed Oxana, a young 25-year old woman with a disability and former resident of an orphanage. After graduating from an orphanage for children with disabilities, Oxana chose to live in a religious, private institution with approximately 20 other residents instead of a large, state-run institution for adults. Most of the residents of this institution, Oxana told DRI, were women with disabilities from institutions, people living on the street, or people living with HIV.

***They were violent, they made us work in the field, pray, and sometimes tried to arrange marriage with outsiders [...]. They became our legal guardians and took our pensions*** – Oxana

After living there for two months, Oxana fled to a state-run institution, where she lives now. Residents there are forced to work in the fields near the institution, and are sometimes hired to work in a house in the nearby village in exchange for “a meal or a drink.”

DRI visited an institution for girls and women aged 8-60 in Mukachevo close to the Hungarian border with Ukraine. During the visit, **most of the girls were outside working on the institution's farm, “as they do every day,”** according to the director.

### **Abuse, restraint and forced abortions**

DRI received dozens of stories by orphanage residents of violence by staff or other residents. Given the enormous age differences between young children and adults mixed together, younger and more disabled children are easily abused by other residents. At the Rozdil orphanage in western Ukraine, DRI investigators were told that older residents are used to keep younger children in-check. We observed a teenager watching over other children with a pair of brass knuckles in his hand.

**Teachers sometimes picked favorites, leaders, and used them as leverage to control the rest of the group. When we were young the older guys beat us. Then we'd grow up and beat the younger ones.** – Roman, orphanage graduate from Odessa

At the Vinnitsya oblast orphanage, DRI saw children of seven and eight years in the same room with teenagers. A 21-year old woman said that residents were often beaten by staff as well as other residents. We met a girl named Katya at this facility who was pregnant. Authorities told her she would have to have an abortion whether she agreed to it or not. A gynecologist at an adult facility in the same city reported that pregnancies in the institution are common and forced abortions are routine.

***Sex at 13 or 14 between kids in the orphanage is normal. We all did it [...]. Some girls ended up pregnant and staff had to take them to have an abortion. They did not ask for permission and the girls had no way out, since a pregnant teenager would cause a lot of problems for the director.*** – Oleg, orphanage graduate

Within institutions, children with disabilities and “behavior problems” are relegated to back wards and subject to the most abusive treatment. At Bukovo orphanage, for example, children with more severe disabilities are placed in a back ward that is filthy. We observed children covered in their own urine and feces in one crowded room sitting or lying on the floors.

DRI observed children with disabilities left tied to wheelchairs in several institutions. DRI also documented the use of sedatives and psychiatric drugs as a form of chemical restraint to punish or control children. In one facility, staff reported to DRI that chemical restraints are used on all residents to make their behavior easier to manage.

### **Neglect in Institutions**

Large numbers of children spend their days in inactivity – lying in cribs, sitting on benches, or lying on the floor. In barren rooms, children are often placed in front of blaring television sets. In orphanages for children perceived to have more severe disabilities, which are operated by the Ministry of Social Policy, investigators observed extensive self-abuse. Psychologists have come to understand that this form of self-stimulation occurs in children subject to the highest level of emotional deprivation. DRI investigators observed a pervasive lack of habilitation, rehabilitation, and even medical care. The lack of activity and human contact contributes to increased disability.

DRI investigators found that many children with limited mobility spend almost their entire day lying in cribs with minimal staff interaction. These children only degenerate in cribs without consistent therapy. According to developmental disabilities expert Karen Green McGowan, these children need consistent attention and interaction for healthy development. The protracted inactivity of remaining in a crib can be dangerous for any child in terms of their physical development, as well as their psychological health.

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***We have 18 year olds who are bedridden who look like 6 or 7 years olds -***  
Director, Vilshany Orphanage for children with disabilities

***These children needed intervention much earlier to prevent the problems that now exist.*** –Director, Bila Tserkva Orphanage for children with disabilities

Because there are minimal supports for adults with disabilities in Ukrainian society, it is assumed that children with disabilities will remain in institutional care for a lifetime. It can be difficult to motivate children with disabilities or their caregivers to develop independent living skills – when children will never have a chance to use these skills.

### **Segregation and lack of community support**

DRI investigators conducted visits to 33 institutions for children and adults throughout Ukraine. It is common for these facilities to be located far from families and communities.

***It is no secret that during the USSR there was a taboo and stigma against people with disabilities. That's why these institutions are usually located in isolated and remote places and are closed off from everyone else.*** – Director, Vilshany Orphanage

The vast majority of children in Ukraine's orphanage system are not orphans. Instead, they are placed in institutions because of disability or poverty or because their parents are considered unfit to keep them. Indeed, Ukrainian authorities estimate that more than 90% of children in the country's institutions have a family. When there is trouble in a family, caused by disability, substance abuse, or other difficulties, social service authorities in L'viv and Kyiv report that there are no substitute or foster family programs to take a child temporarily until the family can be unified. As a result, local authorities report that placement in an orphanage is often the only option for children who might otherwise have been able to remain in the community.

***Doctors tell a mother to go home and have another child and give this one up to the institution.*** – Disability advocate from Western Ukraine

For children with disabilities, the problem is particularly acute. According to the Coalition for People with Intellectual Disabilities (CIPD), Ukraine's largest umbrella organization of family members of people with intellectual disabilities, the vast majority of their members have no access to any form of community supports such as daycare services, inclusive education, or therapy services, making it difficult to keep their child at home. The limited community-based supports in existence are provided by private sources, and they do not begin to meet the needs of thousands of children with disabilities. A small disability pension is available to the families of children with disabilities. This payment is not large enough to defray the actual costs of keeping children in the community.

***The doctors tell me that my daughter is better off in this orphanage. They say that, because of her disability she does not even know I am her mother. I tried everything I could to keep her. But my husband left me, and I need to go back to work. I hope the doctors are right – and she does not remember that I am her mother.*** – English teacher, interviewed by DRI as she dropped her six-year old daughter off at the Bukovo Orphanage

***Social workers tell the parents that they should give their child to the institution— that it's the only way the child will receive food and care and education.*** – Kyiv disability activist for blind persons

The fates of children with disabilities are decided at age four, when they are brought before a Medical Pedagogical Consultancy for evaluation. Children with disabilities are given a rating of 1-4, and this rating will determine what kind of care they will receive for years to come. Such evaluations, which may take no more than ten minutes, are extremely arbitrary. Children labeled as a 3 or 4 are considered to be “un-educable” and are expected to remain in an institution for life.

***They cannot be educated. They can only do elementary things like draw something or make their beds [...]. I will show you these kids. They are nothing. They cannot live in society. They are not for community living.*** – Director, Rivne Institution for children with disabilities

Parents of children who attempt to keep their children at home face enormous obstacles. Most schools will not accept children with intellectual disabilities. In addition to limited educational and vocational opportunities for children, the lack of schools creates great economic pressures on families who must stay home with their children. Except for the very few families that can exist on one income, parents of children with disabilities are forced to place their children in institutions.

### **Perpetuation of abusive institutions by international donors**

International donors are contributing to the process of rebuilding institutions – thus perpetuating segregation and further abuse. Nearly all of the institutions visited by DRI in Ukraine have been significantly renovated or refurbished through a combination of funds from local and international donors. In 2014, the World Bank finalized a \$20 million loan agreement with Ukraine to reform its system of institutional care. The program creates supports and services needed to get children out of orphanages and into family-like settings in the community. However, the program explicitly discriminates against children with disabilities— instead of supporting children with disabilities to move out of orphanages like their non-disabled peers, the program instead renovates and expands institutions for children with disabilities.

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In 2012, the US Department of Defense spent \$420,000 to renovate the Perevalsk orphanage gymnasium. A Department of Defense report stated that this orphanage for approximately 300 children with disabilities had been planned for closure, but it was kept open as a result of this intervention. No apparent effort was made to use this assistance to help children return to their families.

It can be difficult to identify and hold specific international donors accountable because Ukrainian laws and regulations prohibit institutions from directly receiving international donations. Therefore, international funds are generally funneled through local charity organizations who then provide the construction and renovation services to the facility. Without targeted aid to help children return to the community, even volunteer and in-kind assistance appear to reinforce existing practices.

*People who donate only make the situation worse. They just provide a way for directors to use state funding for their own purposes.* – Roman, orphanage graduate from Odessa

### **Future direction: perpetuation of segregation**

Ukraine has ratified the UN Convention on the Rights of Persons with Disabilities (CRPD), a human rights convention that commits the country to full community integration of children and adults with disabilities. **Instead of moving away from segregated services, however, Ukraine and foreign donors have invested scarce resources into rebuilding the system of orphanages.** With almost no community-based support and care available, families may have no choice but to give up children with disabilities. Without sufficient foster care or substitute family programs, disabled and non-disabled children from impoverished or troubled homes continue to be forced unnecessarily into institutions.

Ukraine's government has promised to bring an end to its system of orphanages, but there is no national planning to create programs necessary to downsize orphanages or end new placements. **The government of Ukraine and international donors bear responsibility for a system of segregation that leaves children in danger of violence, exploitation, and abuse.**

## Human Rights Obligations

The following recommendations describe the steps necessary for Ukraine to enforce its obligations under international human rights law in regard to children and adults, with and without disabilities, who have been detained in orphanages and other institutions. This includes Ukraine's obligations under the European Convention of Human Rights (ECHR),<sup>1</sup> the Convention on the Rights of the Child (CRC),<sup>2</sup> and the UN Convention against Torture (CAT).<sup>3</sup> While children with disabilities are disproportionately placed in institutions, *any* child may become disabled as a result of institutional placement. The psychological damage created by institutions may result in invisible disabilities. Thus, as Ukraine takes steps to remedy these abuses, it is especially important for reforms to be consistent with the requirements of the new UN Convention on the Rights of Persons with Disabilities (CRPD).<sup>4</sup> In planning for the reform of its service system for children, Ukraine can also look to detailed recommendations of the UN Guidelines for the Alternative Care of Children.<sup>5</sup>

The core provision of international law that should guide Ukraine's action is CRPD Article 19 which recognizes the right "to live in the community, with choices equal to others."<sup>6</sup> The CRPD reflects one of the main insights of international experience – that abuse, violence, and exploitation are the inevitable result of segregation from society in institutions of any kind. While immediate steps must be taken to protect the rights of children and adults now detained in institutions, the underlying causes of those human rights violations must be addressed through carefully planned but immediate action to downsize and eliminate institutions.

## Recommendations

### A. Recommendations for ending life-threatening abuses, inhumane treatment and trafficking

- 1. Protect children and adults in conflict areas** – Immediate attention is needed to ensure full protection of children detained in institutions in conflict areas consistent with CRPD article 11 (situations of risk) and international standards for care in emergency situations.<sup>7</sup> In times of emergency, there is a great risk that government authorities and international donors will assume that orphanages are a necessary or safe response.<sup>8</sup> **Effective responses that keep families together and avoid perpetuating segregation have been demonstrated.**<sup>9</sup> The findings of this report demonstrate that moving children to new institutions in other parts of Ukraine, where similar abuse or trafficking may also occur, will not ensure long-term safety. Any humanitarian relief program for these children must be cognizant of the risks of abuse and trafficking documented in this report and must include safeguards to protect against such abuse. DRI encourages Ukraine and humanitarian relief organizations to create emergency placements in family-like settings, such as small group homes. Such



homes can serve as a transition to family reintegration. Recognizing that most children have parents and ties to the community, children should not be moved far from the region. Special efforts should be made to ensure contact and, where possible, reunite children with immediate or extended family.

*In every humanitarian crisis, concerned outsiders respond to tragedy with actions that take children away from families and communities. Again and again, girls and boys are mistakenly labeled as orphans and ‘rescued’ from affected areas and taken into orphanages or adopted into new families... this misguided kindness can actually cause significant harm to children and families already suffering from the impact of disaster.* – Justin Forsyth, Save the Children UK<sup>10</sup>

## **2. Bring an end to inhumane and life-threatening conditions in all institutions:**

- Eradicate dangerous, filthy, barren and inhumane environments in which institutionalized persons are forced to live. The priority should be on the outplacement of children to more humane supportive settings with families in the community;
- Guarantee adequate food, medical care, habilitation, physical therapy and psychological support to protect the health and safety of institutionalized children and adults;
- Ensure that children with disabilities receive the active support they need to interact with other people and benefit from programs available to other children of their age. Special efforts are needed to ensure that children are not left in cribs or isolated;
- Ban the improper use of physical or chemical restraints and seclusion.<sup>11</sup> Restraints should never be used for administrative convenience or treatment, and medication should be used only for therapeutic purposes;<sup>2</sup>
- Train professional staff in the care and practices that can be used to bring an end to the use of physical restraints and isolation. This includes specialized training of staff and the creation of positive behavior assistance programs to assist children who are self-abusive;
- Ensure the protection of women and girls, including protection from gender-based violence, denial of reproductive rights, forced abortions, and denial of parental rights.

Bringing an end to the most immediate, life-threatening abuses may entail new expenditures, including on staff, within institutions. Any activities or programs created to end these abuses should be short-term and used as temporary measures until children can be moved to the community. These recommendations do not justify spending on new infrastructure at institutions.

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<sup>2</sup> According the UN Guidelines, “[r]estraint by means of drugs and medication should be based on therapeutic needs and should never be employed without evaluation and prescription by a specialist.”

3. **Adopt and enforce legislation to ensure minimum standards of care** and protection from harm in institutions and community programs. Children in institutions should be guaranteed treatment, habilitation, and appropriate education directed toward their full development and providing skills in independent living.
4. **Adopt and enforce strict standards to protect against forced labor.** Work must not interfere with or be used in place of education, habilitation or treatment. Where the opportunity to work is made available to adolescents and young adults, it should be strictly voluntary and age-appropriate. Such programs must provide wages to residents commensurate with standards in the community.
5. **Establish oversight mechanisms** to protect the rights of children and adults living in institutions or served by community programs. While institution residents are particularly at-risk of violence and exploitation, oversight mechanisms are also important to protect children and adults in community-based services and foster care. In order for rights enforcement to be effective, the monitoring and oversight system should:
  - operate independently of the social service system;
  - be empowered to conduct regular, unannounced visits to facilities and programs;
  - include specialized age and gender specific programs, including programs focused on the identification of sexual abuse, exploitation, and trafficking;
  - engage peers in monitoring and advocacy, including young adults, orphanage graduates and persons with disabilities;
  - publish findings and issue recommendations for reform;
  - make recommendations to criminal justice authorities to prosecute abusers and follow-up on such reports to ensure that existing laws are being enforced;
  - provide opportunities for children or adults to be heard in a supportive and safe environment as part of a monitoring mechanism and in the development of recommendations.

Limited oversight mechanisms that now exist in Ukraine should be extended to ensure that every institution in the country is regularly monitored. DRI recommends the creation of specialized independent oversight systems at the national and oblast levels. Peer groups made up of current and former institution residents, as well as organizations representative of persons with disabilities, should receive training and funding to participate in independent monitoring and advocacy programs.

6. **Individual complaints and safe spaces for whistleblowers** should be established to allow children and adults to report abuses in institutions or community programs. Safe spaces for children should be provided to whistleblowers, including emergency foster care programs or homes in the community, so that individuals alleging abuses are not under the direct care of their alleged abusers.

7. **Create a registry of children in institutions.** This should include a system for tracking admissions, discharges, and transfers of children between institutions or from institutions to other placements so that children cannot disappear from public record – and the protection of oversight systems. Information and statistics gathered by this authority should be used to inform local and national planning for social services, including the creation of community-based programs for children currently residing in institutions.
8. **Anti-trafficking programs of all kinds should be extended** to examine the special problems of trafficking from institutions and forced prostitution of recently released orphanage graduates. Orphanages and institutions for children and adults with disabilities must be regularly monitored by law enforcement agencies to protect against abuse and trafficking.
9. **Programs to assist in the transition from institutions to community living** should be strengthened and expanded to prevent trafficking, suicide, substance abuse, and other dangers faced by children with or without disabilities who have no experience or resources for living in the community. These programs should include housing, employment and priority access to mental health and physical health care for no less than four years after release from an institution, or until children reach the age of 21. Orphanage or institution graduates should have access to vocational training and support programs while living independently in their own homes. The government should provide support for independent peer-support programs to assist with social and emotional support during this important time of transition. Every person released from an institution must have his or her legal capacity restored.
10. **Legal capacity** – The denial of legal capacity creates obstacles to community integration and access to justice for any person once detained in institutions. Ukraine must reform its legal capacity law to conform with article 12 of the CRPD to ensure that every person with a disability has a right to legal capacity as well as support to make decisions for him or herself. Resources and training should be provided to peer advocates to provide assistance with supportive decision-making.<sup>12</sup>

## **B. Recommendations for ending segregation**

To fulfill its obligations under international law, Ukraine must take immediate steps to plan for the reform of its disability service system to bring about full community integration of children and adults with disabilities. Ukraine can benefit from extensive lessons learned from international experience in developing plans for strategic reform.<sup>13</sup>

The vast majority of children in Ukraine’s orphanages are not true orphans— studies indicate that 90-98% of children in Ukraine’s orphanages have at least one living parent.<sup>14</sup> UNICEF reports that poverty and a lack of supports for vulnerable families remain the primary reasons for Ukraine’s epidemic of child abandonment.<sup>15</sup> Stigma and discrimination increases the risk of institutionalization for children with disabilities. Thus, support to

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vulnerable families and anti-stigma programs are an essential part of a broader effort to bring an end to Ukraine’s system of segregated institutions.

DRI recommends that Ukraine:

- 1. Provide support to families of children with disabilities** to preserve the family, prevent new placements, and allow full inclusion in community life, as well as expansion and replication of successful community-based models of care for children with disabilities and their families;
- 2. Expand foster care (or substitute family programs) and kinship care** so all children can grow up with a family in the community; this should include emergency foster care for children who are moved quickly out of abusive situations;
- 3. Establish a moratorium on new placement of children.** DRI has called for a moratorium on the placement of children in institutions as a strategy toward the elimination of all institutions for children.<sup>16</sup> The UN Guidelines on Alternative Care have called for an end to the admission of young children, ages 0-3, to large residential facilities.<sup>17</sup> Urging family-based care for all children, the UN Guidelines outline limited exceptions for residential placement in small facilities – with a plan for reintegration of children to a family.<sup>18</sup> The Council of Europe’s Commissioner of Human Rights has taken a stronger stand, recommending a no new admissions policy for people with disabilities of all ages;<sup>19</sup>
- 4. Provide appropriate education and ensure full inclusion** of children with disabilities at all levels of mainstream schools;
- 5. Create community-based, supported, independent living programs for adults.** Consistent with the requirement of CRPD article 19 that persons with disabilities have a right to live in the community “with choices equal to others,” programs should be established that allow adults with disabilities to choose between family, individual, or group settings. Supported foster families or individual living arrangements for adults, as well as group homes, should be established. While it may be easiest to start with group homes, they should be as small as possible, optimally no more than six beds.
- 6. Plan inclusive reform to achieve full community integration of children and adults with disabilities.** A national plan for integration should be drafted, identifying sources of funding and establishing target dates; such a plan can be used to seek international support for reform. The creation of such a plan should be inclusive and should involve participation by people with disabilities, family members and groups that represent them.
- 7. Take immediate action.** The planning process should not be used to delay immediate steps toward reform. Until such time as funds are made available, a broad array of low-cost steps can be taken immediately to break down barriers that segregate children with disabilities from society. On behalf of UNICEF, for example, DRI developed recommendations for immediate low-cost reform of Russia’s orphanages system,

including detailed suggestions for community integration that could be taken at a time before new funds were available for reform.<sup>20</sup>

Ukraine can draw on extensive international experience in deinstitutionalization. DRI's reports from other countries, for example, provide detailed strategic recommendations that can be adapted to the situation in Ukraine. DRI reports are available on its website at [www.DRIadvocacy.org](http://www.DRIadvocacy.org).

## **C. Recommendations to international funders**

As international donors consider the needs of Ukraine as it responds to economic crisis and war, the concerns of children in institutions and persons with disabilities must be a priority. International assistance is urgently needed to help Ukraine respond to the concerns of children who are segregated from society and detained in the country's orphanages – or making the difficult transition to community life.<sup>21</sup>

International donors responding to the concerns of children must be especially aware of the needs and rights of children with disabilities. International donors have a history of rebuilding crumbling institutions in Ukraine and other countries. Foreign assistance programs should instead help the government of Ukraine create programs that will bring about the full community integration of children – including children with disabilities. Extensive technical resources exist to help international donors draw from international experience to promote full integration of children and adults with disabilities.<sup>22</sup>

**The protection of the rights of children with disabilities is especially urgent with regard to programs now already in the planning phase – including a 2014 World Bank agreement for a \$20 million loan agreement with Ukraine to reform its system of institutional care.** The program explicitly discriminates against children with disabilities by aiming to move institutionalized children without disabilities into families, while at the same time perpetuating and expanding institutional care for children with disabilities.

Immediate action must be taken to ensure full inclusion of persons with disabilities in reform programs.

- **Set aside funding for Ukraine to address the immediate and urgent human rights concerns** of children and all people with disabilities detained in the country's institutions. Given the valuable lessons learned from the international disability rights movement, US and European donors should provide technical assistance to governments in planning reform and supporting local disability advocacy organizations addressing these issues.
- **Ban the use of aid that perpetuates segregation** though the construction or support of orphanages, psychiatric facilities, or other institutions for persons with disabilities. The EU has adopted guidance on the use of structural adjustment funds for EU member states that serves as a model for other international donors. This guidance prohibits the use of funds for segregated institutions.<sup>23</sup> The US Agency for International Development

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(USAID) has a valuable disability policy prohibiting discrimination against people with disabilities, yet this policy does not explicitly prohibit the use of US government funding to build or rebuild segregated institutions for people with disabilities, orphanages, psychiatric hospitals, or other facilities. Explicit language about institutions in the USAID policy would be helpful. The US Department of Defense should adopt a similar policy.

- **Establish a proactive role** in assisting with the transition from institutional to community-based care and commit resources to advance this process in Ukraine as a model for what international donors should be doing around the world. The EU has recognized that proactive measures are needed to address the problem of segregation in institutions. While community-based care may be less expensive than custodial care in institutions, there are extra costs involved in making the transition to community-based care. **International support for innovative new community programs can be extremely helpful, but this will not necessarily impact children and adults detained in institutions without assistance targeted to help with the transition to community life.**

In 2014, the European Union committed a fixed percentage of its total foreign aid to the protection of vulnerable social groups, and explicitly recognized the need for these funds to contribute to the elimination of institutions and the establishment of alternative services in the community<sup>24</sup> Its 2010-2012 action plan for disability specifically identified deinstitutionalization as a priority area for action.<sup>25</sup> DRI recommends that other donors take a similar approach.

- **Ensure inclusion of children and adults with disabilities** from the first stages of assistance onwards in Ukraine and other countries.

**Model USAID program in the Republic of Georgia** - The US Agency for International Development has funded a new program in Georgia that demonstrates how support for advocacy by people with disabilities, along with allies in the human rights field, can be used to promote full community integration. The USAID program also provides technical assistance to the government of Georgia on the creation of community-based care programs for all children with disabilities. In the coming years, this USAID-funded program may become a model for how international aid can be used to support the full community integration of all children with disabilities. For information on this program as a model for reform, see [www.DRIadvocacy.org](http://www.DRIadvocacy.org).

## FINDINGS AND ANALYSIS

### I. Segregated System of Services

***This study extensively reviews available scientific evidence on the negative effects of institutionalization on very young children. It argues that there is now incontrovertible evidence of its harmful effects and that these are not only attributable to poor material conditions in some of the institutions studied, but above all to the lack of emotional attachment and bonding to a particular carer.*** – United Nations Human Rights Office of the High Commissioner, Europe Regional Office (2012).<sup>26</sup>

***Decisions to isolate or segregate persons with mental disabilities, including through unnecessary institutionalization, are inherently discriminatory and contrary to the right of community integration enshrined in international standards. Segregation and isolation in itself can also entrench stigma surrounding mental disabilities.*** – UN Special Rapporteur on the Right to Health, Paul Hunt (2005).<sup>27</sup>

The need for children to grow up with a family has now been recognized as a fundamental human right.<sup>28</sup> The UN Convention on the Rights of the Child (CRC) recognizes that all children should grow up with a family – not just as a matter of good social policy but as a matter of human rights.<sup>29</sup> Article 19 of the UN Convention on the Rights of Persons with Disabilities (CRPD) recognizes that persons with disabilities also have the right to “live in the community with choices equal to others.”<sup>30</sup> Article 23 of the CRPD recognizes that families should not be separated on the basis of disability of the child or of the parent. Where economic difficulties or mental health problems exist in the family, support is needed to keep the family together.

The CRPD refers to “all persons with disabilities,” making it clear that the right to community integration does not just apply to individuals with minimal support needs – it applies to people with every level of disability. In order to make community integration possible, the CRPD specifies that community-based services must be made available, including services in a person’s home “to prevent isolation or segregation from the community.”<sup>31</sup> In limited cases where children do not have parents, or where there is abuse in the home, every effort should be made to place children with extended family or another family-based setting.

The consensus about the right and potential for full community integration is reflected in the 2009 UN Guidelines for the Alternative Care of Children, which provides guidelines to governments about the operation of service systems to ensure that children grow up in safe, nurturing, family-based settings that contribute to their full development.<sup>32</sup> The

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Guidelines recognize the dangers of large institutions and call on all governments to begin immediate planning “for their progressive elimination.”<sup>33</sup>

The Guidelines recognize that there are limited circumstances, as in situations of emergency, where care in a family-based setting is impossible.<sup>34</sup> When placement in a residential setting is made, the Guidelines are clear that residential settings must be “small” and “as close as possible to a family or a small group situation.”<sup>35</sup> The objective of such a setting is that it should be temporary and “contribute actively to the child’s family reintegration.”<sup>36</sup> The Guidelines never place an actual number on what constitutes an acceptable “small” institution and what is dangerously large. Studies have shown, however, that two, three, and four bed group homes provide higher quality of life than larger homes or institutions.<sup>37</sup> While larger group homes may be easier to establish, homes larger than six beds are likely to be more expensive per child in the long run.<sup>38</sup>

None of the institutions DRI visited for the purpose of this report come close to meeting the exceptions outlined in the UN Guidelines. As a general rule, placement is not temporary or used as a step to toward reintegration. Among the 33 institutions DRI visited, the smallest was a 25-bed facility, and most institutions were significantly larger. Forty to 80 beds were most common among the institutions we investigated, but some were close to 200 beds. In institutions of this size, it becomes impossible for children to form the emotional bonds with caregivers necessary for their emotional health.

In Ukraine, the word “orphanage” is itself a misnomer— orphanages house few true orphans. An estimated 90-98% of children in orphanages have at least one living parent.<sup>39</sup> There are at least 82,000 children languishing in Ukraine’s residential institutions.<sup>40</sup> Ukraine’s growing rate of institutionalization is in reality fueled by a severe lack of community-based alternatives, a lack of support to families, and stigma against persons with disabilities.

Perhaps most dangerous of all, DRI’s investigation shows that Ukraine’s orphanages are a gateway to life-long institutionalization for children with disabilities. Children with disabilities rarely “graduate” from orphanages and are instead shuffled between adult wards in orphanages, psychiatric hospitals, and adult social care homes. Children who do graduate from orphanages face a harsh life on the streets— where suicide, trafficking, drug addiction and re-institutionalization are constant threats.

## **A. Structure of services**

According to UNICEF, at least 82,000 children are segregated from society in Ukraine’s orphanages and boarding schools.<sup>41</sup> Other activists have reported as many as 200,000 children in the country’s orphanages.<sup>42</sup>

The true number of children in the country’s orphanage system remains a mystery. The Ukrainian government’s latest official statistics sharply contradicts UNICEF data, claiming



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that only 28,619 children reside in Ukraine’s institutions—a discrepancy of more than 50,000 children.<sup>43</sup>

A former institution director interviewed by DRI explained that the official Ukrainian government numbers are calculated by adding totals from regional government authorities who request the information from individual institutions. This process lacks oversight and leads to sometimes drastic inaccuracies.

***Local governments check only documents— they don't check people. This is the gap.*** – Former director of an institution for adults with disabilities

UNICEF data presents a less optimistic picture of institutionalization in Ukraine, showing more than a 10% increase in the rate of institutionalization in recent years (see figure 1). While the overall number of children in institutions appears to be declining, this has been accompanied by a larger overall population decline— resulting in a larger proportion of all Ukrainian children placed in institutions. **If UNICEF estimates are correct, the rate of institutionalization in Ukraine has gone up by more than 10%.**

**Figure 1: Ukraine’s Increase in the Institutionalization of Children**

	2000	2012	Percent change
<b>Ukraine Population*</b>	49,175,848	45,593,300	7.3 % Decrease
<b>Total # of children in residential institutions^</b>	99,100	81,800	17.5% Decrease
<b>Rate of children in residential institutions (per 100,000)^</b>	<b>921</b>	<b>1023</b>	<b>11.1% Increase</b>

\*Source: World Bank World Development Indicators<sup>44</sup>

^Source: UNICEF TransMonEE 2014, only public institutions<sup>45</sup>

One of the challenges to understanding – and reforming – orphanage policy in Ukraine is the division of institutional structures into different ministries. Institutions are divided by age as well as levels of perceived disability, although these lines are often rather arbitrary. The institutional service system for children in Ukraine is divided among three ministries: Health, Education, and Social Policy.<sup>3</sup> The Ministry of Health operates “baby houses” for children from ages 0 to 4. Baby houses serve as the entry point for most children in

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<sup>3</sup> The Ministry of Internal Affairs additionally operates temporary Shelters and Social Rehab Centers, in which children are placed for up to 90 days (Shelters) or 9 months (Social Rehab Centers) due to of health problems, disability, drugs or alcohol problems, death of parents or children who have experienced violence. As of 2013, there were a combined 12,542 children in these temporary facilities.

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Ukraine’s institutional system and house children with a full range of conditions and abilities—ranging from children with no disabilities to those considered to have severe disabilities or complex medical issues.

At age 4, if a child shows signs of a disability, he or she will be evaluated by a multi-disciplinary panel of professionals called the Medical Pedagogical Consultancy.<sup>4</sup> This committee almost single-handedly determines a child’s future by evaluating the child’s education potential—determining if a child is “educable” or “non-educable.” The panel also considers whether a child should be institutionalized, and if so, in what kind of institution. In practice, children without parental care are always referred to an institution due to the complete lack of alternatives in the community.

Originally termed the Medical Pedagogical Committee, this panel was re-named to become the Medical Pedagogical Consultancy. This reform was intended to remove the compulsion of parents/guardians to follow the committee’s placement recommendation. DRI’s investigation has revealed, however, that the near complete lack of services and supports in the community for children with disabilities presents parents of children with disabilities with only a false choice: follow the committee’s recommendation for institutionalization, or keep children at home with no opportunity to receive education and care.

***The Medical Pedagogical Committee refers kids here. They have the final say.*** – Deputy Director, Vinnitsya orphanage for children with disabilities under the Ministry of Social Policy

A child determined by the panel to have educational potential will be referred to Ministry of Education orphanages (known as “specialized boarding schools”). Children whom the committee deems “non-educable” are referred to institutions operated by the Ministry of Social Policy.

Rodyna, a Kyiv-based disability advocacy and family support organization, reports to DRI that the process of evaluation by the Medical Pedagogical Consultancy takes approximately 10 minutes.<sup>46</sup> The director of a Kyiv pre-school told DRI investigators that the evaluation is comprised of arbitrary intelligence tests, such as requesting that the child build a pyramid out of blocks or divide items by colors. Each child is then given a classification from 0-4:

- **0 – No disability** (Ministry of Education boarding school— if child is an orphan)
- **1 & 2 - Mild intellectual disability** (Ministry of Education specialized boarding school)
- **3 – Moderate intellectual disability** (“Uneducable” Ministry of Social Policy Orphanage)
- **4 – Severe intellectual disability and/or a physical determination of being “bedridden.”** (“Uneducable” Ministry of Social Policy Orphanage)

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<sup>4</sup> The composition of the Medical Pedagogical Consultancy includes specialists in education, speech therapy, psychology, child development, behavior, psychiatry and neurology.

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Medical Pedagogical Consultancy officials report to DRI that children who have physical disabilities that render them “immobile” are automatically assigned a level 4 “non-educable” status, regardless of the child’s intellectual capacity.

***Level 4 is very tricky, because it’s not only about intellectual disability. It’s also about physical disability. We have a 9-year old girl here in the level 4 department who has very light intellectual disability—almost none. But she’s bedridden, so she’s level 4. [...] She will stay here until she’s 18. After that, maybe her family will take her back. If not, then she will go to the adult institution.***  
–Director, Bila Tserkva Orphanage for children with disabilities

Historically, institutions in Ukraine for children with disabilities under the Ministry of Social Policy and the Ministry of Education have been designed to segregate people with disabilities from the larger society.

***It’s no secret that during the USSR there was a taboo and a stigma against people with disabilities. That’s why these institutions are usually located in isolated and remote places and are closed off from everyone else.*** – Director, Vilshany Orphanage for children with disabilities<sup>47</sup>

The Ministry of Social Policy operates 53 orphanages across the country for children considered un-educable, while the Ministry of Education operates 46 specialized boarding schools.<sup>48</sup>

Ukraine’s sole reliance on an institutional care system for children with disabilities deprived of parental care means that initial placement in an institution for these children usually results in life-long detention, according to directors of institutions visited by DRI.

***When people are admitted, they stay the rest of their lives.*** –Director, Novobilychi institution for men with disabilities<sup>49</sup>

The Ministry of Social Policy operates 323 institutions (“psycho-neurological institutions”) for adults with disabilities.<sup>50</sup> Additionally, several Social Policy orphanages have recently opened “youth wards” for young adults age 18-35. The directors of several of these orphanages report to DRI that they are afraid to transfer their residents to the adult institutions, and have opened the youth wards to keep the young adults in their care, fearing that they will be at risk of abuse or death in the adult facilities.

## **B. Causes of institutionalization**

In Ukraine, it is much easier to enter the institutional system than to leave it. There are several pathways for entry. For children with visible or obvious impairments at birth, advocates report that it is common for doctors to persuade mothers to give up their children to an orphanage, suggesting that parents should “focus on their healthy children,” or “try again” when children are born with a disability.<sup>51</sup>

***Doctors tell a mother to go home and have another child and give this one up to the institution.*** –Disability advocate from western Ukraine.

***There's an increasing percentage of children with disabilities in institutions*** – Director, Lviv Baby House

Parents who attempt to raise their child with a disability at home face a myriad of obstacles, often feeling they have no choice but to abandon their child in an institution when the realities of raising a child without supports becomes overwhelming or financially impossible. These parents receive almost no public support other than a disability pension which parents report to DRI is woefully inadequate to support the needs of a child with a disability.

Other children with disabilities are referred to institutions once they reach school age and are evaluated by the Medical Pedagogical Consultancy. It is DRI's observation that children are classified by the committee to be “moderately to severely disabled” if their needs are even slightly greater than existing parental resources, educational systems, or community services can provide.

Ukrainian government officials recognize that institutions, which improperly segregate children and adults from society, persist because of the lack of community-based services and supports for families.

***Institutions are outdated now. It is no longer about protecting children. It is simply about keeping children. [...] Setting up community rehabilitation programs would solve a lot of problems.*** – Deputy Director of the Center for Child Services, L'viv Oblast<sup>52</sup>

According to activists and institution directors interviewed by DRI, only a limited number of services to help children at risk of institutionalization exist in Ukraine, and poor families are unlikely to be able to take advantage of them.<sup>53</sup>

The Coalition for People with Intellectual Disabilities (CIPD), Ukraine's largest umbrella organization of family members of persons with intellectual disabilities, reports that the Ukrainian government pays the costs for only 288 children out of 17,000 children served by daycare centers throughout the country. The list of poor and vulnerable families waiting for these services is long, reports CIPD, and the availability of services in rural areas is seriously inadequate.<sup>54</sup>

The challenges facing families of children with disabilities were made painfully clear in one case DRI witnessed and captured on video in the Bukovo Orphanage for girls with disabilities in western Ukraine. DRI advocates visiting the Bukovo institution happened across a woman grasping a young girl and sobbing. She told DRI she had come to give her child up to the institution because she was single, and could not work and care for her child at the same time. She said she wanted to keep her child but had no other choice but to leave the child in the institution. There were no available community services, such as day

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care, which would allow her raise her child at home. The mother said that doctors told her the child would be better off in the institution.

DRI has interviewed dozens of families much like hers who feel they have no choice but to abandon their children to an institution. Families often cite advancing parental age, financial hardship, lack of training in caring for a child with a disability and physical accessibility challenges as reasons for admitting their children to institutions.

*I still fight the urge to place my child in an orphanage. It's so incredibly hard to support him at home.* –Disability activist at a 2015 DRI-sponsored advocacy training

### **C. Lack of community services leading to lifetime institutionalization**

Children deemed “non-educable” and placed in an orphanage under the Ministry of Social Policy face pervasive discrimination. While children considered to be educable receive special education services and limited vocational training, those in non-educable institutions receive almost no services. Several Social Policy institution directors told DRI that the children in their care had no hope of ever rejoining the community and therefore the orphanages do not attempt to prepare children for independent living.

*They cannot be educated. They can only do elementary things like draw something or make their beds [...] I will show you these kids. They are nothing. They cannot live in society [...] They are not for community living.*<sup>55</sup>— Director, Myrogoshcha Orphanages for children with disabilities

DRI observed that children in specialized boarding schools under the Ministry of Education receive a basic education and limited vocational training, including programs teaching sewing, carpentry, crafts, and assembling paper boxes.

If children in specialized boarding schools fall behind in their school work, they can be re-assessed and relabeled as non-educable. DRI investigators interviewed a young woman in one Social Policy orphanage in central Ukraine who explained that she was transferred out of a specialized boarding school after she had difficulty memorizing a poem.

For children with certain levels of disability, it is all but guaranteed that upon reaching the age of 18 (or 35 where youth wards have been established) they will be eventually transferred to a psycho-neurological institution for adults with disabilities. In a few cases, orphanage graduates may have parents or relatives who will take them in. **In most cases, however, young adults with disabilities are simply transferred to adult institutions where they will spend the rest of their lives.**

Directors of orphanages echoed these concerns:

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***They have nowhere to go after they turn 18. The only place they could go is another psycho-neurological institution for adults.*** – Director, Myrogoshcha Orphanage for boys with disabilities

***Even for those whose families take them back when they turn 18, eighty percent of them will go back to an institution at some point.*** –Director, Bila Tserkva Orphanage for children with disabilities

DRI found that many residents of adult psycho-neurological institutions were graduates of specialized boarding schools who did not receive support after leaving the school and were soon re-institutionalized.

Regardless of whether a child is placed in an orphanage under the Ministry of Education or Ministry of Social Policy, parents and advocates report that there are no services to assist in transition to adulthood.

DRI interviewed the parent of a young adult who is living in the Vinnitsya psycho-neurological institution. She told DRI that because the cut-off age for daycare services is 18 years old, he now has nowhere to stay during the day. She has to work and she cannot leave him at home alone; this is the only reason her child is living in the institution.

***They are not supported. No vocational training, no services, nothing is arranged for the transitional period.*** – Advocate from Dzherelo Daycare Center in L'viv.

Children with no disabilities or mild disabilities receive no support in transitioning to adult life once they graduate from orphanages. The vast majority of young adults who do not have parents to whom they can return will face a life on the street and a hungry existence.

***Growing up in the institution we did not meet many outsiders, we were not familiar with the city even though the school is in the city. When we graduated we did not have anybody to support us, no friendships outside of the orphanage, no money, and no place to live.*** –Inna, former resident of an Odessa orphanage

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## Examples of Model Programs in Ukraine

While there is a general lack of community-based support systems in Ukraine to preserve families and keep children out of institutions, there are some isolated models of excellent community care created by non-governmental organizations. One such program is *Dzherelo* in L'viv. This program was created at the initiative of family members of people with disabilities, providing high quality, comprehensive services and education to children and young people with a broad range of intellectual and physical disabilities. The program helps more than 300 children and young adults with disabilities live with their families. The program provides daycare services to 150 children and young adults who participate in daily programs, early intervention therapies and education. *Dzherelo* provides a powerful model of what can be achieved in terms of community integration for children with all levels of disability in Ukraine. It is important to note that the services provided by *Dzherelo* would be even more effective if the broader service and educational system were

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fully integrated and supportive. Instead of providing a stand-alone school and community center, disability services should ultimately be integrated into mainstream schools and community programs serving all other children.

The organization *Rodyna* in Kyiv pursues a similar philosophy of supporting independent living of persons with disabilities and has had success in supporting children with more complex intellectual disabilities, or multiple disabilities, to be included in their communities. The organization works with children alongside their families, providing both the professional and peer support needed to keep vulnerable families together.

There are also other valuable models of services helping children from orphanages that greatly assist in promoting community integration for adolescents and young adults graduating from orphanages. One such program is *Universal Aid for Children (UAC)*, based in Odessa. This program provides an array of support to help children with disabilities gain the job skills they will need to transition toward independent life. For children with disabilities, such a program can help avoid the trap of life-time institutionalization. A program like UAC provides invaluable low-cost services that could and should be expanded and replicated throughout the country at a time when many adolescents and young adults are in need of its support.

### **D. Lack of oversight**

The Ukrainian government, UNICEF, and local NGOs offer drastically different estimates of the number of children and adults in residential institutions. One key reason for this discrepancy, a former institution director informed DRI, is that the government's official numbers are compiled from documents filed by the institutions—and not through independent visits and monitoring. DRI's investigation has revealed that the limited monitoring systems that do exist are either not fully independent from the government, or lack the authority to monitor conditions effectively.<sup>56</sup>

The risk of torture or ill-treatment and human trafficking is greatest wherever there is no oversight and it is impossible to monitor or identify the location of children by family members or government authorities. Criminal activity is especially likely to occur in a closed environment with no independent human rights monitoring. DRI's concern for the safety of children in unregulated orphanages is heightened by the fact that human trafficking has been identified as an increasing problem in Ukraine by the US State Department, the International Organization for Migration, and others. DRI has spoken with orphanage graduates who have experienced or witnessed trafficking for sex, labor and organs.

The National Preventative Mechanism (NPM), which was launched in Autumn of 2012, is Ukraine's most extensive monitoring effort for residential institutions. Mandated under the United Nations Convention Against Torture, which Ukraine has ratified, the NPM conducts human rights monitoring visits to all types of residential care in Ukraine, including prisons, refugee camps, and institutions for persons with disabilities, among others. While persons

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with disabilities and their civil society representatives may participate in monitoring visits as part of the NPM team, they are not permitted to individually publicize their findings. Instead, the decision on what findings are published as a result of NPM investigations rests solely with the Ukrainian Human Rights Ombudsman's Office— a pseudo-governmental agency.

The director of Hope & Homes—Ukraine, a Kyiv-based advocacy organization seeking to replace institutional care with community-based services, reports that the NPM process does not give sufficient attention to the concerns of children in orphanages. Furthermore, the NPM is charged with preventing torture, and is therefore not equipped or sensitized to effectively document the dangers of segregation, isolation, and discrimination that persons with disabilities face in institutions. As a result, DRI has found that NPM recommendations focus on improving physical conditions and services within institutions— rather than advocating for their closure and transition to a community-care based model.

The NPM mandate does not extend to private or church-run institutions, and it does not conduct monitoring of children in foster care or group homes.

***I think group homes are even worse than institutions - there's less oversight and foster parents use kids for earning money and as labor.*** — Roman, orphanage graduate in Odessa region interviewed by DRI

***Some of the small group homes are headed by pastors - they are very corrupted. They earn money on children and make them pray.*** — Oleg, orphanage graduate in Odessa interviewed by DRI

In some instances, advocates are able to monitor institutions by participating on a Public Council. Public Councils are elected boards of citizens who provide oversight and guidance from the local community for all levels of government. In some instances, regional governments have established special Public Councils for monitoring institutions.<sup>57</sup> While such involvement of the public is laudable, DRI's participation in monitoring of institutions with a Public Council team revealed that the process lacks the authority and mandate needed to effectively document and protect human rights.

In 2012, DRI accompanied Public Council members to institutions for persons with disabilities in the Vinnitsya and Donetsk Oblasts. Several institutions in Vinnitsya refused to show monitors certain areas of the institution. Most institutions DRI attempted to visit in Donetsk refused access outright — including an orphanage in Torez where just a few years earlier an undercover investigation revealed severe malnourishment and medical neglect of the children in their care.

***"There is nothing to see there. I can only show you what I was ordered to show you,"*** DRI was told by the Deputy Director of the Vinnitsya oblast orphanage for children with disabilities, after DRI requested to see a locked residential ward while accompanying Public Council representatives. The deputy director insisted that the ward was under



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reconstruction and was un-inhabited. However, DRI investigators could hear coughing coming from the locked ward and observed personal belongings hanging from windowsills.

There is no legal framework to allow civil society organizations to visit closed facilities. DRI has interviewed several organizations who have arranged access to institutions by currying favor with directors by offering services or other benefits. One such organization providing therapy and support services to adolescents in orphanages expressed concern to DRI about sexual violence and other abuses they have witnessed or suspected within orphanages. They report to DRI that they must engage in a balancing act of challenging abuses and protecting their own access. If they push too hard for change, the organization reports, they will lose access to the institutions— and the children will lose much-needed supports and connection to the outside world.

*Growing up in the institution we did not see many people from outside. The only people the director allows in the orphanage are those who offer money or aid.*  
—Recent graduate of orphanage

## **E. Lack of plans for reform**

According to officials from the Ministry of Social Policy, the Ministry of Health, and the Ministry of Education, Ukraine does not have a national plan for transitioning from an institutional to a community-based care system.<sup>58</sup> The Ukrainian government has made a broad commitment in its 2012 National Action Plan on Implementation on the Convention of the Rights of Persons with Disabilities to support families and promote community inclusiveness; however, the implementation of this plan has not included de-institutionalization efforts for children or adults with disabilities.

Institutionalized persons without disabilities are now receiving fresh attention from authorities. In 2014, the government of Ukraine and the World Bank signed a loan agreement which will allocate \$20 million dollars to closing orphanages for children without disabilities and integrating these children into families, foster care, or small group homes in the community. According to the loan document, and confirmed by the World Bank representative in Ukraine responsible for its implementation, the plans do not include any efforts to move children with disabilities out of institutions, but will instead rebuild the existing institutions. Disability researchers, such as the EU Ad-Hoc Expert Group on Transition from Institutional to Community-Based Care, have found that such investment in physical infrastructure of institutions strengthens and perpetuates a segregated system of care.<sup>59</sup> The experience of advocates throughout the region indicate that discriminatory community reforms which include only children without disabilities, rarely return for the children and young adults with disabilities who were left behind. DRI documented this phenomenon in Georgia in its 2013 report *Left Behind*; UNICEF illuminated the same practice of leaving children with disabilities out of reform movements in Serbia in its 2013 State of the World's Children Report.

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There are a number of important model programs serving children with disabilities in the community in Ukraine. Some programs for supporting families and preventing institutionalization have received government support; several baby homes under the Ministry of Health have begun establishing early intervention drop-in centers to provide therapies and services for parents of vulnerable children. **Valuable as they are, these family support programs only serve a fraction of the population in need. Funding is needed to replicate and expand these programs on a national level.**

Officials from the three ministries responsible for institutions for children (Social Policy, Health, and Education) report to DRI that a ban on using “capital expenditures for innovation” due to the ongoing war in the east makes it almost impossible for the government to advance community integration initiatives that require an initial investment.<sup>60</sup>

Ukraine’s financing structure for existing institutions presents another powerful disincentive for reform. A person with a disability living in an institution only receives 25% of his or her disability pension. Seventy-five percent is siphoned by the institution into a sizable pooled fund which is often used for the physical infrastructure of the facility.<sup>61</sup> Such reconstruction efforts, according to the European Union Ad Hoc Expert Group on Transition from Institutional to Community Based Care, make it much more difficult to close the institution and transition to community-based alternatives, as government officials are hesitant to close newly-renovated facilities.<sup>62</sup>

Ukraine has not yet demonstrated a full commitment to address the country’s most serious human rights violations facing institutionalized children and adults. If current plans were fully implemented, there may be the closure of a few institutions, but only those who do not have disabilities would be integrated into society. Serious reform will require acknowledgement of the extent of the problem, coordinated efforts between all ministries, and budget allocations that back up promises in a non-discriminatory fashion. While the Ukrainian government bears the ultimate responsibility to protect the human rights of children and adults with disabilities, international donors can play a critical role in encouraging and supporting the transition from institutional to community-based care.

*Imagine – 19 years in orphanages. I am struggling to keep my sanity here.*  
–Resident of Zhmerynka Institution for adults with disabilities

## II. Abuse in Institutions

*[...] The Special Rapporteur draws attention of the General Assembly to the situation of persons with disabilities, who are frequently subjected to neglect, severe forms of restraint and seclusion, as well as physical, mental and sexual violence. He is concerned that such practices, perpetrated in public institutions, as well as in the private sphere remain invisible and are not recognized as*

***torture or other cruel, inhuman or degrading treatment or punishment.***  
–former UN Special Rapporteur on Torture, Manfred Nowak<sup>63</sup>

Under the European Convention and the UN Convention Against Torture, governments must take proactive measures to ensure that practices causing pain and suffering that might rise to the level of ill-treatment do not take place. The failure to protect people from ill-treatment or torture is among the most serious human rights violations under international law. These are considered “non-derogable” rights – meaning that there are no exceptions to the obligations of governments to protect against such abuses, including in circumstances of national emergency.<sup>64</sup>

With the ratification of the UN Convention on the Rights of Persons with Disabilities, Ukraine has obliged itself to ensure that people with disabilities are guaranteed these protections, even if the abuses take place under the guise of “medical treatment” or in an environment that is intended for their medical care or protection. Due to the “growing demand for the protection of fundamental rights and freedoms,” treatment that may not have been considered torture in the past may be considered torture now or in the future.<sup>65</sup>

UN Special Rapporteur on Torture Juan Mendez, in his 2013 report on Torture in Healthcare Settings, has pointed out that the pain and suffering caused by break-up of a family and “segregation from family and community” may itself violate the Convention against Torture.<sup>66</sup> A broad range of abuses that commonly take place in institutions, including poor conditions of detention, denial of medical care, and abuse by staff can also violate the Convention against Torture. The Special Rapporteur has taken an especially strong stand against such practices as seclusion and restraints that can cause severe pain and suffering. He has stated that seclusion of any duration of a person with a mental disability is cruel, inhuman and degrading treatment. The use of any restraint on persons with disabilities, even for a short period of time, may constitute torture and ill-treatment under international law.<sup>67</sup>

A 3-year DRI investigation of 33 Ukrainian institutions has revealed extensive evidence that such abuses exist in many of Ukraine’s institutions for children and adults with disabilities. Documentation from local activists, as well as testimony of residents and staff of institutions, provide strong evidence that such abuses are systemic throughout the country’s entire institutional service system. Thousands of individuals with and without disabilities in Ukrainian institutions are subject to severe emotional and physical pain, restraint, seclusion and dangerous or neglectful medical care that constitute ill-treatment under international law. In some cases, the abuses DRI observed may rise to the level of torture.

***I think putting a child in a long-term institution is an act of abuse [...] Children in institutional care have deteriorations in many things we want to see children improve in during the earliest years of their life [...] a few days in an institution should be as long as children are asked to endure.*** –BBC interview with Dr. Dana Johnson, researcher on the effects of institutionalization on children<sup>68</sup>

## A. Dangers of low expectations

An overarching impression of DRI investigators is that children and adults in Ukraine's institutions are perceived by institution staff and government authorities to be severely disabled if the needed supports for cultivating their independence are not readily available. Despite the mandated development of individual rehabilitation plans and therapy programs, most institution staff interviewed by DRI believe that most, if not all, of their residents cannot be supported to live in the community. Institution staff admit that most people admitted to institutions will never rejoin society.

The UN CRPD mandates that governments take action to habilitate (develop skills) and rehabilitate (re-learn skills) individuals with disabilities to help them reach their full potential to live independently, develop self-determination, and attain full inclusion in society.

***States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life.*** – Article 26, UN Convention on the Rights of Persons with Disabilities<sup>69</sup>

Instead of preparing children and adults for life in the community, there is a pervasive lack of confidence in the potential of children and adults with disabilities who live in Ukraine's institutions. Government authorities in Ukraine have recognized that the institutional system does not address this urgent need:

***Institutions are outdated now. It is no longer about protecting children. It is simply about keeping children.*** – Deputy Director of the Center for Child Services, L'viv Oblast

***Institution staffing standards are no longer relevant. I need more staff who can provide rehabilitation rather than just take care of children.*** – Director, L'viv baby house

Most institutional staff in Ukraine liberally use the terms rehabilitation and habilitation to describe arts programs, psychotherapy, or work therapy programs. In reality, these programs are not truly designed to counter the barriers to independence that these same institutions erect, as institution directors readily admit that most residents will never live in the community.<sup>70</sup> DRI asked institution directors how many of their residents could be supported to live in the community, in families or with appropriate supports:

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***20 or 30 out of 106, in an ideal world [...]. There are no initiatives to integrate these people into society.*** – Director, Myrogochcha Orphanage for boys with disabilities

***5%[...]. When people are admitted, they stay the rest of their life.*** –Director, Kyiv Institution for adults with disabilities

***We do not have people like that here. We are not a rehabilitation center. We are a medical social facility.*** – Director, Zhmerynka Institution for adults with disabilities

Furthermore, studies have indicated that simply being raised in a congregate setting causes lasting psychological and physical damage. In many cases, a month of development is lost for every 3 months a young child spends in an institution.<sup>71</sup>

Countries around the world have demonstrated the capability of persons with all varying degrees of disability to be supported to live in the community with appropriate supports. A large body of research from the deinstitutionalization movement in the United States found that all persons with disabilities currently living in institutions can be more effectively served in the community, including those deemed to have the most severe disabilities.<sup>72</sup> One such study found that: “***[...] self-care and domestic skills were the skills which increased the most when people move to the community. There are also significant improvements in academic skills, community living skills, language/communication skills, social skills, and vocational skills when people left institutions for community placements.***”<sup>73</sup>

For children without parents in Ukraine, their fate is largely sealed from the moment they are examined by the Medical Pedagogical Consultancy (MPC) at age 4. It is assumed that children without parents who receive Level 3 and 4 labels, a MPC representative explained to DRI, will spend their entire lives in state institutions.

Many such children are assigned Level 4 because they are perceived to be immobile. In no institutions visited by DRI did investigators find appropriate rehabilitative caretaking which would enable these children to significantly improve their mobility— on the contrary, these children were most often written off as helpless and permanently bedridden. Children should never be medically labeled as bedridden, according to DRI’s medical expert and President of the Developmental Disabilities Nurses Association, Karen Green McGowan. In reality, she explains, such a label indicates that a child is not getting the attention and care needed to ensure that the child gets out of bed as much as anyone else and develops his or her mobility to its fullest potential. Children labeled as immobile were seen in several institutions languishing in inactivity in rows of cribs.<sup>5</sup>

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<sup>5</sup> Including orphanages in Vilshany, Bukova, Kyiv, Zalyucha, Rivne, and Ladyzhyn.

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In the case of adolescents and adults, DRI observed that programs described to investigators as rehabilitation were in reality little more than time-filling activities—especially when viewed in light of the directors’ disbelief that many of their residents could ever live as part of society.

In several institutions,<sup>6</sup> DRI observed dozens of children and adults crammed into a single room with one caretaker guarding the door. Whether billed as therapy or simply free-time, the scenes looked the same: a few residents drawing in books or watching TV, but most doing nothing at all, except sometimes rocking back and forth on the floor, or hitting or biting themselves— actions which are often tell-tale signs of emotional neglect and under-stimulation.

For children with disabilities, there is no support to establish an independent life as an adult in the community— unless they return to their parents, most young adults with disabilities are simply shuttled to adult institutions.

***Many of the young adults who graduate from the orphanages could have been supported to get jobs and to be fully integrated into society. But they are forced to go to another institution.*** –Director of early intervention and day care center  
School Stairs

DRI investigators interviewed dozens of adults who felt their dreams and aspirations were slipping away the more time they spent in an institution. In the Vinnitsya Institution for adults with disabilities, DRI met Olga, a 44 year old with a degree in economics. Olga told DRI investigators that she wanted to get a job and establish her independence. Her desires were shrugged off by the administration.

**“According to her individual rehabilitation plan, she cannot get a job,”** the institution director told DRI. **“Psychiatrists from the Vinnitsya psychiatric hospital write that it is impossible to give her the rehabilitation to be fully capable.”**

While still within earshot of Olga, the director elaborated, **“She has a very passive lifestyle. She doesn’t do embroidery. She doesn’t do knitting. She is depressed, so the only thing she can do is make her bed. That’s all she’s capable of.”**

Another woman who had spent more than a decade in the institution approached DRI investigators and began sharing everything she wanted to do— her desire to leave, get a job, and move far away from the hospital. Another resident commented, **“Poor girl, she’ll never get that.”**

***Because they live here, that means they can’t live at home.*** – Director, Zhmerynka adult institution for adults

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<sup>6</sup> including orphanages in Zhytomer, Bukova, Zalyucha, Vilshany, Rozdil and Kyiv; and adult institutions in Vinnitsya and Kyiv and Donetsk.

DRI also interviewed a young 23-year old woman named Natalia living in an institution for persons with disabilities in Tyachev, in western Ukraine. Natalia told DRI investigators that life in the institution meant living her life according to a strict time-table and not being able to make her own decisions. She wants to learn how to cook and to train to become a cosmetician. She says she is patronized in the institution about her ambitions and she is afraid she will never have the chance to pursue her dreams.

In almost every institution visited by DRI, at least one resident would ask to be taken away from the institution.

*Please take me home. I can do all kinds of hard work on the farms or the field.*

–Young adult resident of the Holoby Orphanage for boys with disabilities to a DRI investigator

## **B. Lack of resources to support habilitation and rehabilitation**

In every Social Policy orphanage housing children labeled with moderate to severe disabilities which DRI visited, advocates observed children rocking back and forth, hitting themselves, or biting their own fingers. These self-injurious behaviors are often the result of being placed in an environment that is lacking in human contact and stimulation. In several institutions, DRI advocates observed rooms where children of all ages were confined to cribs for the vast majority of the day— with minimal staff interaction.

In 2013, DRI accompanied an activist from Dzherelo rehabilitation center in western Ukraine to orphanages where she works to save children on the verge of death from malnutrition and inactivity. This activist focuses her lifesaving nutritional interventions on institutions where children have difficulty eating or metabolizing food. She told DRI that she has seen firsthand how basic medical and nutritional neglect can lead to these children becoming bed-ridden, and she has witnessed children across the country slowing dying in cribs from malnutrition. As a result of her work, the problem of malnutrition has been greatly reduced in the institutions she visits. However, she confirms that the problem of malnutrition and neglect remains a systemic issue throughout Ukraine. Consistent with DRI observations, she describes the typical staff ratio in institutions as 1 caretaker to 12 “bedridden” residents.

The director of the Social Protection Department for the L’viv Oblast also expressed frustration regarding staffing levels, stating that, **“it’s physically impossible for one nurse to take care of these 12 children.”**

*It’s just not possible to do what needs to be done for a child’s development at 1 caretaker for 12 kids. Especially for children who are completely dependent. –*

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Karen Green McGowan, DRI medical expert and President of the Developmental Disabilities Nurses Association

Overnight shifts can bring even more dire staffing conditions. In the Vinnitysa Orphanage for children and young adults with disabilities, where extensive violence was reported to DRI by children living there, the overnight shift has a ratio of 1 staff member to 20 residents.

The Ukrainian newspaper *Svoboda Slova* reports that in December 2012 the director of the Ladyzhyn orphanage for children with disabilities in central Ukraine pleaded for more assistance for children under his care, telling the newspaper that he was not able to procure sufficient food for the residents in his care—and that he was completely reliant on volunteers to provide the nutrition the children needed to survive. Another staff person told the newspaper that with only one staff person for 14 children, there was not enough time to feed every child appropriately.<sup>74</sup> When DRI investigators visited this institution in 2013, the staffing levels were so dismal that children were confined to beds all day, naked from the waist down, with buckets kept by the sides of their beds as a toilet.

DRI interviewed a baby house director in L'viv near the Polish border who explained that while she may be an exception because she has “almost too many” staff, government policies prevent her from hiring caretakers with certain specialties that she needs in order to provide appropriate medical care for children with disabilities. Likewise, institutions under the Social Policy Ministry, where children deemed to have more severe disabilities go after leaving the baby house, **“do not have the resources needed to care for children with medical needs.”**<sup>75</sup>

The director of a Social Policy orphanage in Bila Tserkva agreed with this assessment, telling DRI investigators, **“I’m very frustrated, because I get children who urgently need medical help, and we cannot provide it [...]. They come here [from the baby house] in very bad shape. Sometimes, their conditions improve here, and when the baby house comes with a new admission, they see these children after a year and say ‘Oh, so they are still alive?’”**<sup>76</sup>

Another Social Policy orphanage in the remote mountainous village of Vilshany on the Moldovan border houses 67 children and young adults who are labeled as “Level 4” and therefore deemed to be permanently bedridden. The director informed DRI that the institution employs no physical therapists to work with these persons to develop their mobility. Instead, they rely on volunteers from abroad to provide this service when possible.

***These children needed intervention much earlier to prevent the problems that now exist. Children with very severe disabilities need more care than they are able to get in the baby house. They need more time to be fed appropriately, to receive physical therapy, to be washed. So maybe it’s because of the staffing***



***levels that they are not getting the care that they need.*** –Director, Bila Tserkva Orphanage for children with disabilities

In addition to staffing restrictions in government policy, the director explained that because the institution is in an “isolated and remote” area, it is almost impossible to find staff willing to commute to the facility— as a result, many children with motor and muscle development disabilities such as cerebral palsy do not receive the support they need for healthy development.

***We have 18 year olds who are bedridden who look like 6 or 7 years olds***  
—Director, Vilshany Orphanage for children with disabilities

Children who spend protracted periods of time lying on their backs in a crib, particularly with little or no attention from their caretakers, suffer profound deprivation with serious consequences for their health and development<sup>77</sup>

***An infant's cry is a signal for attention. When these signals are routinely ignored, the baby ceases to cry and becomes listless. The physical development seen in normally nurtured babies does not happen in these infants and gravity begins to change the shape of the body. The head and chest flatten, and the child will not grow and develop at the same rate as other children. Many of these children become withdrawn and listless, and some will die from lack of nurturing. The most devastating deprivation is the lack of a mother surrogate, and, over time there are irreversible psychological and physical consequences simply attributable to the lack of nurturing and stimulation.*** – Karen Green McGowan, President of the Developmental Disabilities Nurses Association

Some institution staff are aware that the development potential of children is going to waste. The director of the Ladyzhyn orphanage for children with disabilities told the *Svoboda Slova* newspaper in 2012: **“The lack of special equipment causes almost total immobility of children. Staying in special beds with high guards for entire days is the only way for these children to spend their lives.”**<sup>78</sup>

### **C. Dangerous and inappropriate medical care**

DRI documented a broad range of dangerous and inappropriate medical care in Ukraine’s institutions for children and adults. Within Ukraine’s residential institutions, children with disabilities are subjected to extensive medical neglect, forced abortions, and physical and chemical restraints. In one hospital for adults with disabilities, DRI documented the routine use of electric-shock therapy without anesthesia — a practice that the former UN Special Rapporteur on Torture has determined may rise to level of torture under international law.<sup>79</sup>

i. Neglect

The director of the Zalyucha institution in southwest Ukraine told DRI investigators that the average life expectancy of a person labeled as Level 4 is 30-34 years. This estimate was echoed by other institutions directors as well.

***With cerebral palsy, there are not many who live up to 35.*** – Director, Myrogoschcha Orphanage for boys with disabilities

Early intervention is critical in ensuring the survival of children with cerebral palsy. One study has shown that those who develop some mobility and eating skills have a 90% chance of reaching adulthood, while those who do not receive support to develop such skills are much more likely to die at an early age.<sup>80</sup>

Ukraine's disability categorization system includes a special designation for children deemed to be immobile, which would include many individuals with cerebral palsy. DRI observed that in all orphanages which house level 4 residents visited by investigators, children and adults with cerebral palsy were not supported to develop their independence and mobility.

Without physical therapy or sufficient movement and interaction with caretakers, the children assessed by DRI experts in Ukraine's orphanages are at risk for developing conditions such as joint contractures, hip dislocation, scoliosis, bed sores and chronic pain.<sup>7</sup> DRI observed several children who would be at risk of becoming permanently bed-ridden without immediate intervention.

To maximize growth and development, experts recommend that children have a care plan that consists of "feeding, sleeping, physical therapy, play, other ways to foster growth and development, medications, psychosocial needs, family needs, and pain assessment/management."<sup>81</sup> This level of care is a level that most institutions cannot provide. Rather, it is the level of care that parents or other consistent care-givers naturally provide their children 24 hours a day.

***Just getting out of bed and being held and moved around can be life-saving. Every person, regardless of their level of disability, has to build a relationship with some other human being or they will not survive. We have an aging population of people with this kind of cerebral palsy in the United States living into their seventies.***– Karen Green McGowan, President of the Developmental Disabilities Nurses Association

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<sup>7</sup> A contracture is a permanent shortening of a muscle or joint; scoliosis is condition where the spine becomes curved; bed sores are injuries to skin and underlying tissues caused by prolonged pressure on the skin.

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It is generally common for children with complex physical disabilities, and particularly cerebral palsy, to have trouble eating or swallowing. This can lead to “pulmonary aspiration,” where food or saliva enters the lungs, often resulting in pneumonia or death from asphyxiation.<sup>82</sup>

The medical neglect of children in Ukraine’s orphanages has been brought to the attention of authorities before. In 2011, the *Sunday Times* of the UK published shocking photos of 11 year olds confined to cribs who were the size and weight of toddlers in the Torez institution for children with disabilities in Eastern Ukraine.<sup>83</sup> DRI was denied access to Torez when investigators attempted to visit in 2012 to follow up on the condition of the children.

### ii. Forced abortions and sterilization

***States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that: [...] The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided [...].***

—Article 23, UN Convention on the Rights of Persons with Disabilities

DRI interviews with institution residents and staff and local NGOs have revealed a disturbing pattern of reproductive rights violations against girls and women in Ukraine’s institutions.

In the Zhmerynka institution for adults with disabilities, the male gynecologist on staff informed DRI that women are regularly given forced birth control injections if they are thought to be dating someone. All women in the institution have their menstrual cycles logged by the gynecologist and are “checked regularly to identify pregnancies early.” The gynecologist was hired by the institution, he told DRI investigators, because of a recent “problem with pregnancies.”

The gynecologist reports that women who are deprived of their legal capacity cannot refuse an abortion.<sup>8</sup> Ostensibly, women who retain their legal personhood may refuse an abortion. Pressed further, however, the doctor confirmed that if they feel an abortion

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<sup>8</sup> Legal capacity deprivation means that courts have declared a person to be incapable of making decisions affecting their own lives. Legal capacity deprivation is common among institutionalized adults in Ukraine—the process is usually initiated by relatives or the institution director. Legal capacity deprivation in Ukraine is discussed further in a separate section of this report.

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should occur anyway, a medical committee at the local psychiatric hospital can override a woman's decision to keep her child.

If a pregnancy does occur, the gynecologist informed DRI, the women are given chemical abortions if detected early or sent to the hospital for mechanical vacuum abortions if detected later.

DRI met 31-year old Julia in this institution. She told DRI that in the past year she received an abortion when she was one-month pregnant. She said that this is done routinely and that the women are very aware that—as they quote the director—**“no babies are allowed in the facility.”**

In the orphanage for children and young adults with disabilities in the Vinnitsya Oblast, residents told DRI that girls are sent for monthly gynecological exams. DRI investigators met Katya and Olena in this orphanage. Katya informed us that she was in her third trimester of pregnancy. Earlier, the deputy director of the institution had assured DRI that there were no pregnant women in the facility.

Katya told DRI investigators that it was well-known that no babies were allowed in the institution, and that she would be taken for an abortion soon. When asked whether the orphanage administration would make her have an abortion with the pregnancy in such a late stage, Olena exclaimed: **“Sure they will. They will tie her down and kill her baby. But she wants to keep her baby!”**

A graduate of Boarding School #7 for children with disabilities in Odessa told DRI investigators that her friends “in other boarding schools were free to leave and come back any time they wanted; when they got pregnant - they were forced to have an abortion.”

***Sex at 13 or 14 between kids in the orphanage is normal. We all did it [...]. Some girls ended up pregnant and staff had to take them to have an abortion. They did not ask for permission and the girls had no way out, since a pregnant teenager would cause a lot of problems for the director.*** –Oleg, an orphanage graduate from Odessa

DRI interviewed the director of United Family, a women's rights organization based out of Kharkiv, a city in the northeast on the border with Russia. She informed DRI that in her work in the Kharkiv region has found similar issues as DRI has documented in the Vinnitsya region. In the orphanages that she works in throughout the Kharkiv region, she reports that starting from puberty, girls are taken to medical centers and given hormonal treatments to limit their sexual development. Boys, she reports, are not required to go to the medical center.

DRI is concerned that woman given abortions may also be subject to non-consensual and un-informed sterilization. Ukrainian law allows for sterilization of persons with “psycho-social disorders” or intellectual disabilities.<sup>84</sup> DRI interviewed an activist in the Odessa

region of Ukraine who tells DRI she has interviewed many woman in institutions who were taken to clinics to get abortions. ***“I suspect that women are sterilized at the same time they are given abortions,”*** she told DRI investigators, ***“I’ve never seen the same woman in an institution get pregnant twice.”*** DRI has not independently corroborated forced sterilization through interviews with institution residents. However, according to Ukrainian law, women who are under the guardianship of the institution director would not have to consent or be informed about the procedure. Further investigation of this issue is needed.

### *iii. Restraint*

The use of restraints and seclusion can be both psychologically damaging and life-threatening.<sup>85</sup> According to the UN Special Rapporteur on Torture, seclusion and restraint of persons with mental disabilities for any amount of time may rise to the level of torture under international law.<sup>86</sup> DRI has observed mechanical and chemical restraint of children and adults with disabilities in several Ukrainian institutions. Residents subjected to these restraints are often unable to move freely, use their hands, or even leave their beds—leaving them completely dependent on institutional staff.

DRI has witnessed children with disabilities tied to wheelchairs in orphanages in Bukovo and in Ladyzhyn orphanages. In the Rozdil Orphanage for boys with disabilities, DRI observed a boy who was forced to spend the entire day with his hands tied behind his back, including while going to the bathroom and during mealtimes.

Ukrainian media exposed conditions in the Ladyzhyn orphanage in 2012, finding the number of staff so severely lacking that the director admitted that they could not appropriately feed the children, and had to tie children down to beds for their own safety.

DRI’s 2014 visit revealed that conditions at Ladyzhyn remained dismal and included the use of both physical and chemical restraints. DRI observed underweight children who spent their entire day confined to a crib or bed. DRI investigators observed one child tied to another child who was in a wheelchair. During DRI’s visit, institution staff had turned on loud music and staff, residents, and investigators were speaking loudly. In the middle of this commotion, DRI observed a girl lying facedown in a bed, completely unresponsive to the noise around her. When DRI asked why she was so sedated, staff explained that “she was aggressive, so we gave her pills and she’s sleeping now.”

In under-staffed institutions which may struggle to manage children or control behavior, chemical restraints (sedatives) can be a convenient means to gain control over children or adults deemed to have behaviors which are difficult to manage.

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In the Vinnitsya orphanage for children with disabilities, DRI was informed that during the overnight shift there was only 1 nurse and 7 assistant caretakers to care for 150 children. DRI investigators asked staff how they handle undesirable behavior with this staffing level:

***We use pills.*** – Deputy director, Vinnitsya Orphanage for children with disabilities

Staff in the Belgorod Orphanage for children with disabilities reported to DRI investigators that 100% of the residents are given drugs to help control their behavior. In the children’s ward of the Vinnitsya psychiatric hospital, staff explained to DRI that they sometimes use tranquilizers to make the children sleep at night.

The director of the Vinnitsya psychiatric hospital confirmed that long-acting sedatives are regularly used to “manage difficult behavior.”

DRI interviewed a former orphanage resident, Dennis, in Odessa who described in detail the use of psychiatric medications to punish and control behavior. Dennis told DRI that when he was young, he escaped from a boarding school for children without disabilities. He was caught, and sent to a regional psychiatric hospital where he was given cocktails of psychiatric medication which sedated him and numbed his mind. He was then moved to an orphanage for children with disabilities—despite never having been diagnosed with a disability before. Dennis again tried to escape this second orphanage: ***“After I escaped and they brought me back, they undressed me, put me on a mattress-less steel bed, tied me to the bed and gave me shots of psychotropic drugs.”***

### iv. Dangers of social isolation

A lack of physical accessibility can serve as a powerful barrier to integration and can increase social isolation—even in already segregated environments such as institutions. Nearly every institution visited by DRI in Ukraine was physically inaccessible, with no elevator to allow persons with limited mobility to travel between floors. In several institutions, DRI observed residents in wheelchairs kept on the second or third floors— a simple stairwell serving as a daunting and powerful form of social isolation.

***The volunteers have to carry as many as 25 children who are bedridden up and down the stairs, because they don’t have elevators.*** –Advocate from Dzherelo Daycare Center regarding the Vilshany Orphanage for children with disabilities

On the third floor of the Zhmerynka Institution for adults with disabilities, DRI investigators found men with the lower halves of their bodies shackled into leather sacks, leaving them only able to crawl across the floors. Staff explained to DRI that the institution lacked wheelchairs and other assistive devices, and that the sacks were meant to be protective measures for adults who have cerebral palsy and would ostensibly damage their

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limbs if they attempted to move around the institution without protection of the thick leather bags.

DRI has found in Ukraine that it is common to keep children and adults perceived to have more severe disabilities in isolated “back wards.” In an orphanage for girls with disabilities in Bukovo, for example, DRI found dozens of children in a small building separate from the main facility. In the poor conditions of the dilapidated building, DRI observed children rocking back and forth in mind-numbing boredom in urine-soaked rooms while a few staff members stood watch over the children.

And in the Vinnitsya Orphanage for children with disabilities DRI was told that the third floor of the building was not ready for our visit due to renovations, and that no children were living there. Upon closer inspection, DRI investigators could hear coughing through the locked, barred door to that floor.

Children and adults who are confined to beds are considered by many institution directors to be difficult or impossible to rehabilitate or teach life skills. They therefore spend most, if not all, of their day confined to their bed, sometimes unable to sit up or move around.

In the adult institution in Vinnitsya, DRI found an older woman in her bed on an upper floor in the middle of the day. She was immobile, staff explained, and only went outside if staff carried her out to the balcony. There is no elevator in the institution for her to reach the ground floor. DRI asked staff about her schedule for the day:

***She is not able to do anything. Bedridden residents do not participate in the scheduled activities with the rest of the patients.*** –Nurse, Zhmerynka Institution for adults with disabilities

In the same institution, DRI investigators found extensive evidence of seclusion rooms. The institution contained three bare rooms which appeared to be used to separate and isolate residents. DRI found a 12 x 12 room reminiscent of a jail cell, with a barred, pad-locked steel door and two metal beds inside. Across the hall, DRI investigators found a 3 x 5 room with a dirt floor, a bucket, a small bench and a single light bulb hanging from the ceiling. Finally, DRI observed a larger, sterile looking room containing nothing more than a medical cot and a stainless steel set of drawers. Outside, above the door, the word “Isolator” was inscribed. In the yard, DRI observed a small, fenced-in area which was locked from the outside. Staff denied that any of the rooms were ever used.

### v. Electroshock therapy

DRI has not conducted a thorough investigation of Ukraine’s psychiatric healthcare system, but a visit to the Vinnitsya psychiatric hospital in central Ukraine raised concerns that adults with psycho-social disabilities are also at risk for medical neglect in Ukraine’s

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psychiatric hospitals. In the Vinnitsya hospital, DRI documented regular use of electric shock therapy (ECT) without the use of anesthetics or muscle relaxants.

ECT is a procedure in which electric currents are intentionally sent through the brain, inducing a seizure, as an effort to treat psychiatric conditions.<sup>87</sup> While the controversial treatment's effectiveness has long been debated between the psychiatric medical community and patient's rights groups, it is widely accepted that ECT should not be applied without anesthesia and muscle relaxers.

Researchers at Johns Hopkins University in the United States warn that the failure to use anesthesia and muscle relaxants before administering ECT would ***“be painful and risky. Violent seizures would cause the body to thrash with a force great enough to break bones.”***<sup>88</sup> Other risks include embolisms and the rupture of internal organs.<sup>89</sup>

In the Vinnitsya psychiatric hospital, however, DRI documented the use of ECT without anesthesia. The nurse who described the process to DRI investigators demonstrated little to no awareness of the potential pain of providing the medical procedure in this manner.

***We don't give them pain medication, because they don't experience pain. They can't remember the pain.*** — Psychiatric nurse, Vinnitsya psychiatric hospital

After informing DRI that a resident had recently dislocated his jaw during the procedure, the nurse admitted to DRI investigators that the hospital also does not use muscle relaxants.

Former United Nations Special Rapporteur on Torture Manfred Nowak has stated that due to the severe pain and suffering caused by ECT when used without anesthesia or muscle relaxers, the procedure performed in such a manner ***“cannot be considered as an acceptable medical practice, and may constitute torture or ill-treatment.”***<sup>90</sup>

## D. Violence and sexual abuse

DRI's investigation into Ukraine's institutions found that children and adults are often victims of violence. Women are particularly vulnerable to sexual abuse. Several former orphanage residents interviewed by DRI in the Odessa region of Ukraine report that male staff regularly make sexual advances on girls in orphanages—and in many instances rape them.

***In the Ananiiv boarding school I heard of a schoolgirl becoming pregnant from a staff member [...] and in Balta boarding school a staff member raped a girl. All these stories are not covered by media. Nobody ever finds out. Especially in rural areas.*** –Zhenya, a former orphanage resident in the Odessa region interviewed by DRI



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Boys are not immune from sexual violence in orphanages. DRI interviewed a former male resident of an Odessa orphanage: ***“I was raped, and then I raped other boys who were younger. I don’t want to talk about it.”***

In an institution for boys and girls and young adults with disabilities in Vinnitsya in central Ukraine, DRI investigators spoke to a 21 year-old woman named Irina. Irina told DRI that violence is common in the orphanage and that children are beaten by both staff and other residents. The boys in the institution, she complained, are very violent by nature, and they torture dogs and cats that wander onto the institution grounds—by setting them on fire, or gouging out their eyes. She explained to investigators that her boyfriend had recently been sent off to the psychiatric hospital after hitting her in the stomach.

***It’s OK to have one boyfriend who hits you, if he can protect you from all the other boys.*** — Irina, Vinnitsya Oblast orphanage for children with disabilities

***They beat the kids regularly. I am glad to be away from it.*** — Galina, a former resident of the Vinnitsya Oblast orphanage for children with disabilities

A representative from the women’s rights and anti-trafficking organization La Strada informed DRI that in their experience, sexual violence usually begins when girls are around 13 and is perpetrated by institution staff members. The program coordinator for counter-trafficking for the International Organization for Migration in Ukraine informed DRI that older children also abuse younger children and that there is typically “huge sexual abuse” within orphanages. Other activists who work with children in institutions echoed this concern:

***There are very high levels of violence in the institutions, not just sexual but psychological and physical as well.*** — Director, United Family NGO

In the Rozdil institution for boys and young men with disabilities, DRI witnessed a group of 3 young adults huddled together. DRI investigators observed that they were looking at a pair of brass knuckles one of the men had obtained. A younger resident told investigators that the three young men were aggressive and violent and had a reputation for bullying the younger children.

The NGO United Family provides therapy and education to young residents of institutions. The director United Family told DRI that during therapy sessions, “it’s often difficult for children to sit in an open circle without a table in the middle—they feel like they need a physical barrier to protect themselves from each other.”

***I want to leave and live far away from this place.*** — Irina, resident in the Vinnitsya Orphanage for children with disabilities.

DRI’s investigation has revealed that it is common practice in Ukraine to mix age or gender in residential dorms—creating a high risk for sexual violence and abuse, particularly in

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institutions with poor staffing levels. In several co-ed institutions visited by DRI, including the Vinnitsya orphanage for children and young adults with disabilities and the children's ward of the Lviv psychiatric hospital, wards are not divided by age. In the Vinnitsya orphanage, men in their 30s sleep in the same wards as pre-pubescent girls, according to the deputy director.

The director of the Vilshany orphanage for children and young adults with disabilities reports to DRI that the wards of the institution are divided by age, but not by gender.

## E. Denial of legal personhood

Legal personhood simply means having the legal right and ability to make decisions that affect your own life. In Ukraine, this fundamental right is often denied to people with disabilities, especially those with intellectual or psychosocial disabilities. Deprived of legal capacity, these individuals are at the complete mercy of their legal guardians—for institutionalized persons, this is most often the director. Persons deprived of their legal capacity are not able to decide where they will live, go to court to challenge abuses, or control their own finances, among other limitations.

The practice of taking away someone's legal personhood is often referred to as "civil death," as the status essentially labels someone as a non-person, under complete control of their legal guardian.

***Fully respecting each person's legal capacity is a first step in the prevention of torture and ill-treatment.*** — Juan Mendez, United Nations Special Rapporteur on Torture<sup>91</sup>

The Coalition for Persons with Intellectual Disabilities (CIPD), Ukraine's largest family member organization, called attention to Ukraine's failure to respect the right of people with disabilities to make legal decisions about their own lives in a 2012 submission to the United Nations Committee on the Rights of Persons with Disabilities.<sup>92</sup> When a person with a disability is deprived of legal capacity, CIPD reports that **"his/her signature becomes invalid. The person cannot express his/her own view about medical treatment or care; cannot apply for a job; cannot do any financial operation; cannot apply to the courts or any other authorities, cannot get married, etc. Only the body remains [...]. A person's mind is no longer recognized. All decisions are taken by the guardian."**<sup>93</sup>

Children with disabilities who age out of orphanages are evaluated by a panel known as the Medical Expert Social Committee, which determines whether or not they will retain their legal capacity as an adult. According to the director of the Holoby Orphanage, the young adults are present at the evaluation, but they are not permitted to have anyone else there to support them. In one instance, the director reports that they were attempting to restore the legal capacity of a resident, but the young man got nervous and was not able to answer

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the panel's questions to their satisfaction. Despite the institution director's recommendation, he was denied his legal personhood.

DRI interviewed a disability activist in Ukraine who has worked to restore legal capacity to adult residents of institutions and move them into the community. It is a common scheme, she reports, for family members to attempt to have a relative diagnosed with a psychiatric condition, institutionalized and deprived of their legal capacity. Often, the family member will become the person's legal guardian and gain control over the person's finances and real estate.

In 2014, an undercover Ukrainian journalist obtained video of an institution director describing how easy it is to bribe a doctor to give a family member a certain diagnosis and recommend institutionalization.<sup>94</sup> This corruption continues to be widespread, according to the Odessan activist working on behalf of adults deprived of their legal personhood.

***In the Velika Ribylski institution for women there's a new resident. She was a teacher, and now she's there. Why? She does not know. She suspects it could have something to do with someone trying to get her property.*** — Odessa disability activist

In October 2013, the Ukrainian newspaper *Poltava* published a plea from Elena Sekirazh, a 22 year-old woman deprived of legal capacity who resides in the Novosanzharskiy orphanage. *Poltava* reports that Elena is reaching out publicly because she wants to find someone to become her guardian who will help her leave the orphanage and live independently.<sup>95</sup>

***Doctors intentionally gave me the second level of disability to deprive my legal capacity, to leave me in the institution. It is profitable for them. But I am normal person who wants to finish my education. When I was a child I dreamed to become a nurse... I don't want to live in an institution.*** — Elena Sekirazh as quoted in the *Poltava* newspaper

An institutionalized person may retain *de jure* legal capacity, but due to the closed-off nature of the institution, the director ultimately makes all decisions for residents *de facto*. In the Vinnitsya institution for adults with disabilities, DRI investigators asked a hypothetical question regarding abortions: What would happen if a pregnant woman who retained her legal capacity wished to give birth to her child, but the institutions doctors felt she should have an abortion? The director told DRI that in such a case, the woman would be evaluated by a medical committee, which would make the final decision, regardless of the woman's legal capacity status.

### III. Institutionalization and Human Trafficking

*Ukraine is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking.* — US State Department 2014 Trafficking in Persons Report<sup>96</sup>

*Children are often recruited for commercial sex or forced labour from orphanages and crises centres throughout the country.* — La Strada, Ukraine

Based on our findings, DRI is concerned that Ukraine's system of orphanages serves as a recruitment tool for traffickers to find vulnerable children for sexual exploitation, organ harvesting, and forced labor. The International Organization for Migration (IOM) reports that more than 120,000 Ukrainians have been victims of human trafficking since 1991, and that Ukraine is one of the largest source countries for trafficked persons in Europe.<sup>97</sup>

**It is “the most typical scheme” to recruit children from orphanages into prostitution,** according to the public relations director of the Ukrainian office of La Strada, an international women's rights organization. IOM reports to DRI that orphanages are a direct feeder to both domestic and international human trafficking. La Strada informed DRI investigators that when children are exploited in orphanages, the cycle of abuse typically begins around age 13, usually instigated by the staff of the institutions.

*There's huge sexual abuse within the orphanage. Even among the children. Older children abuse the younger children. Nobody is able to deal with this issue. So this is a push factor that gets children involved in sexual exploitation even before they grow up. They're already used to the sexual abuse.* — Counter-Trafficking Program Coordinator, IOM-Ukraine

DRI interviewed former orphanage residents who illuminated the abuses that take place behind the walls of the institutions. One young woman living on the streets of Odessa named Maria told DRI in 2014 that she had grown up in Odessa's orphanages, but fled at age 15 after beginning to fear for her life.

**“Children would go into the woods behind the building and disappear,”** Maria told DRI investigators, **“Every year 10 to 12 children went missing. We thought it was rapists and murderers. Some children were found dead but nothing was done. The staff never asked ‘why?’”**

*My friend in the orphanage was raped, but police never came. I meet many orphans on the street who have escaped orphanages because the staff scare them. Staff let everyone drink alcohol and sniff glue—and the older boys have sex with the younger girls.* — Maria

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Another former graduate of an orphanage from Odessa told DRI investigators that her friend had witnessed brothels run in the basement of Odessa orphanage #5 where underage children were bought and sold for sex. DRI was able to track down and speak to a former resident of the institution who said that while she herself never entered the brothel, it did exist. The brothel was shut down; however, orphanage #5 continues to house and care for the children who were exposed to and often victimized in the brothel.

Local news stories paint a disturbing picture of the scene within:

***Yes, more than once [the girls were offered money for sex]. Some girls agreed. They paid them with cheap Turkish clothes.***

***“They had fun there: skinny dipping (in the sea, which you can reach directly from the sauna), shouting, orgies. And all this under the windows of the boarding school dormitory.” says former pupil of the #5 school Natasha, now a student. “All the five years that I spent in an institution, in the sauna daily taxi came a call girl. They pleased their customers almost in front of our eyes.”***

Anti-trafficking organizations report to DRI that girls from orphanages are especially vulnerable to trafficking for child porn production.

***There are people in Ukraine who help to find these children who are vulnerable for child pornography [...]. Of course, the most vulnerable children are those from poor families, social orphans, and kids in orphanages.*** — La Strada

***Homeless, orphaned, and poor children are at high risk of being trafficked and are targeted by recruiters for child pornography.*** — US Department of Labor 2012 report on the Worse Forms of Child Labor in Ukraine<sup>98</sup>

Children who are exploited in orphanages do not escape the cycle of abuse once they graduate.

***Graduates of orphanages are particularly vulnerable to many forms human trafficking. They tend to be psychologically vulnerable and also ill-equipped to find alternate opportunities.*** — International Organization for Migration

Many women, La Strada reports to DRI, are trafficked internally, forced or coerced into working as prostitutes within Ukraine. Most children who leave orphanages go to vocational schools, where IOM reports most of their documented trafficking cases originate. Children who are coerced into becoming prostitutes while they are in orphanages, La Strada reports, usually continue to sell their bodies after they graduate as they have not been given “any support or assistance or education that there are other ways to earn money and live.” One Ukrainian official commented that “most graduates of children’s orphanages in Ukraine cannot adapt to adult life and instead of a good job and

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home, they face life on the street and a hungry existence.”<sup>99</sup> Less than half of graduates leaving orphanages have a place to sleep, according to another Ukrainian official.<sup>100</sup>

Maria, the former orphanage resident, told DRI investigators that she was attacked and raped on the street shortly after leaving the orphanage. She is now HIV-positive and finds shelter in tents, and abandoned basements; she is now living in a storage facility.

*There are many former orphans living on the streets and in the sewers. They are sex workers and they collect metal [...]. I beg. I look for metal in basements. I am lonely and I am afraid I will be raped. Strangers approach me and say, ‘Come with me and I will give you food.’* — Maria

*The fate of children after leaving orphanages is, for the most part, a life of survival on the streets. They have nowhere to go, and they have to seek refuge in dark corners of houses, in abandoned dwellings, or with other inmates of the orphanages who were luckier.* — TSN Ukraine News<sup>101</sup>

The director of United Family, an organization based in Kharkiv with a focus on women’s rights, told DRI that in her experience, women with intellectual disabilities are most at risk of being targeted for exploitation.

*Prostitution rates are higher in institutions for children with intellectual and developmental disabilities than in regular institutions. Kids who have intellectual disabilities receive the least support, and they are targeted [...]. Women who graduate from orphanages are at risk for everything you can imagine.* — Director, United Family

During DRI’s investigation in the Vinnitsya Institution for adults with disabilities, the director admitted to DRI investigators that they had recently married off 4 women to men from the nearby city.<sup>102</sup> An activist from the local organization USER, which advocates for the rights of institutionalized adults, explained that one of the only ways for a woman with a disability to leave an institution is to be married off to someone outside the institution.

Sex trafficking is not the only risk facing institutionalized children and young adults in Ukraine. The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons,<sup>9</sup> which Ukraine has ratified,<sup>103</sup> includes “[...] **forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs**”<sup>104</sup> among acts which are considered human trafficking under international law.<sup>10</sup>

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<sup>9</sup> This protocol supplements the UN Convention against Transnational Organized Crime.

<sup>10</sup> The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons defines “Trafficking in persons” as “...the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the

The International Organization for Migration (IOM) reports that as of mid-2014, the illegal organ trade is on the rise in Ukraine. Around the world, children with disabilities are one of the most at-risk populations for organ trafficking, reports the UK newspaper *The Telegraph*.<sup>105</sup>

In Ukraine, DRI documented the case of a mother of a boy with Down syndrome who recounted her experience in a Kyiv maternity ward. The doctors, she recalls, attempted to persuade the child's grandmother to convince her to give up the newborn, in order to be sold for his organs. She refused. The child is now 4 years old and lives happily at home.

***The doctors told my mother that they will take the child to be an organ donor to other countries and they will get money for her. [...] If you listen to everybody here in a similar situation, you could just cry buckets.*** – Mother of child with Down syndrome

The most common form of trafficking in Ukraine, according to IOM's 2014 status report, is labor exploitation. La Strada stated in an interview with DRI that the over the past two years, **internal labor trafficking has become “mainstream.”**

In nearly every orphanage and adult institution visited by DRI, investigators witnessed the exploitation of residents for labor. Forced labor was often disguised as rehabilitation and occupational training, even though directors admitted that residents would never leave institutional care.

DRI interviewed Oxana, a young 25-year old woman with a disability and former resident of an orphanage who is a current victim of labor trafficking in Ukraine. After graduating from an orphanage for children with disabilities, Oxana chose to live in a religious, private institution with approximately 20 other residents instead of a larger, state-run institution for adults. Most of the residents of this institution, Oxana told DRI, were women with disabilities from institutions, people living on the street, or people living with HIV.

***They were violent, they made us work in the field, pray, and sometimes tried to arrange marriage with outsiders [...]. They made themselves our legal guardian and took our pensions.*** — Orphanage graduate

***In Andrey-Ivanovo institution the children were forced to work in the field from 6 am to 6 pm. Sometimes staff members took children home to work in the house and in the fields.*** — Orphanage graduate

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exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

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After living there for two months, Oxana fled to a state-run institution, where she lives now. In this institution, residents are forced to work in the fields nearby and are sometimes hired to work in a house in the nearby village in exchange for “a meal or a drink.”

In the Vinnitsya orphanage for children with disabilities, residents told DRI that staff members decide what work each child is responsible for, and that staff will beat them if they do not do their work well.

DRI visited an institution for girls and women ranging in age from 8 to 60 in Mukachevo, on the Hungarian and Slovakian borders with Ukraine. During the visit, **most of the girls were outside working on the institution’s farm, “as they do every day,”** according to the director.

Often, DRI observes that higher-functioning residents of institutions are forced to help care for persons with more complex disabilities or perform undesirable tasks. In the Vinnitsya psychiatric hospital, a resident showed DRI investigators a room inside of a “work therapy” area where residents are made to take the stuffing out of soiled mattresses, heat the stuffing to sterilize it, and then re-stuff the mattresses. The residents of the institution pointed out that construction jobs to renovate the institution also fall under their work therapy program.

In the Vilshany orphanage for children and young adults with disabilities, the director told DRI investigators that children with disabilities would often be taken to the Czech Republic to perform fundraising concerts and host events for a network of “217 high-profile donors.” All funds raised, the director explained, went toward to physical renovation of the orphanage.

Safeguards to protect against trafficking are nearly non-existent in Ukraine. Pedophiles and others who seek to traffic children or adults face minimal barriers in gaining access their victims in Ukraine.

In recent years, there has been a proliferation in international temporary foster programs and volun-tourism with little to no monitoring or background checks. International foster programs are often designed to encourage adoptive parents by providing a temporary trial period so the potential parents can decide if it’s a good match. The lack of oversight, however, creates an avenue for abuse to flourish. A DRI investigator completed applications for two organizations facilitating such international placements, representing herself as a potential adoptive parent. At no point in the process was she asked to complete a background check, come in for an interview, or be cleared by social services. The organizations only requested contact information for character references. DRI also interviewed a couple who hosted two young girls from Ukrainian orphanages during the summer of 2014. While this family provided a loving, safe home for the duration of the stay, they confirmed to DRI that no background check was performed and that the children could just have easily been sent to the home of a pedophile, trafficker, or child porn producer.



Organizations that appeal to international volunteers to pay to travel to orphanages to help care for or teach children are known as volun-tourism programs. Numerous recent studies and news exposés have found that such programs rarely help children in need—but instead line the pockets of institution directors because of significant monetary contributions made by volunteers. This money provides incentive for institutions to keep their facilities looking desperate and needy—in order to more effectively attract international donation and volunteers. In Ukraine, these programs offer another unmonitored pathway for predators to access vulnerable children.

***There are no safeguard or background checks for volun-tourism. Nobody controls that.*** — Representative from LaStrada

Exploitation and trafficking in Ukraine's orphanages has been well-chronicled by local media. In 2012, an institution director in Chernivtsi was jailed after being convicted of sexually abusing 15 underage residents.<sup>106</sup> One Ukrainian woman shocked the country's collective conscious in 2012 when she recounted on television the horrors of living in an orphanage where men would regularly climb fences to rape her and other pre-teen girls.<sup>107</sup>

***Girls in institutions suffer the same degree of extreme vulnerability as child refugees. Without support and protection from family and community, all children are vulnerable to predators.*** — Dr. Juliette Engel, Founding Director, MiraMed Institute<sup>108</sup>

Victor Malerek, in his book *The Natashas*, documents the horrifying journey of girls and women from Eastern Europe in the underground criminal sex trade. According to Malerek, many directors of Ukrainian orphanages know girls under their care are being preyed on by sex traffickers, but they claim that they don't have the resources to deal with the problem. Some may not be seeking a solution— La Strada reports to DRI that in their experience it is most often orphanage staff who begin the cycle of sexual abuse of young girls.

Malerek reports that it is common for traffickers to wait for young girls to graduate from orphanages and then induct them into international trafficking, luring the young graduates with false promises of employment overseas. In 2011, the director of the charity organization World Hope Ukraine told the UK-based newspaper *The Guardian* that Ukrainian orphanages routinely sell children— and that in at least one case, they found that a girl's teacher at her orphanage was also her pimp.<sup>109</sup>

Organ trafficking has persisted as a primary concern of Ukrainian anti-trafficking organizations for more than a decade. In 2006, The *BBC* exposed an organ trafficking ring targeting infants with disabilities.<sup>110</sup> The *BBC* spoke to mothers from Kharkiv, Ukraine's second-largest city, who reported that hospital staff took their children away from them immediately after birth, and they never saw them again.<sup>111</sup> The *KyivPost* reports that parents were told that their children died at birth.<sup>112</sup> An examination of the exhumed

fetuses, according to the *BBC*, showed that the children's bodies were dismembered and stripped of organs, including brains—likely for the burgeoning underground trade in stem cells.<sup>113</sup>

The *Telegraph* reported in 2006 that the investigator looking into these claims was fired. The newspaper quotes the investigator's explanation:

*I was sacked for political reasons. I demanded an investigation into all maternity wings in hospitals across Ukraine and I was relieved of duty after making that demand. [...] A trade in stem cells exists here. [...] Pregnant women, especially from rural areas, are very vulnerable targets as they will obviously believe whatever the doctors tell them. It's easy to take their babies from them and tell them they died or were born dead due to complications.* — Irina Bogomolova, former investigator, Ukraine Chief Prosecutor's Office.<sup>114</sup>

## **A. Increased risk of trafficking during a time of war**

The ongoing conflict in Ukraine has placed the country's most vulnerable population in the crossfire. The Human Rights Ombudsman Office of Ukraine has appealed to the government and the international community to save endangered residents of orphanages, adult institutions, and psychiatric facilities from imminently life-threatening conditions in the occupied territories of Eastern Ukraine.

The Kharkiv Institute for Social Research (KISR) reports to DRI that as many as 30,000 children and adults remain in dire circumstances in institutions in the East— many of which have run out of food, fuel, and medication and are completely dependent on volunteers. In many institutions, most of the staff has fled, leaving residents to fend for themselves.

KISR reports to DRI that an institution for women with disabilities in Slavzanoserbskii in the Luhansk region has only six remaining staff to care for 350 residents. In Krasni Luch in Luhansk, all staff fled the city's orphanage and local authorities called on community residents to take in children who were left behind.<sup>115</sup>

Studies conducted in the region have clearly shown that the risk of human trafficking increases dramatically in times of conflict. Those who remain in unstaffed and ill-equipped institutions, or those who have fled to the streets, face considerable risk of exploitation.

Those who have been evacuated may be similarly at risk. KISR and the Human Rights Ombudsman Office of Ukraine confirm that there is no official plan for evacuation of institutional residents. Instead, a handful of charity organizations have worked to move children and adults out of the war zone.

## No Way Home—Disability Rights International

There is no evidence that this evacuation, however, has been accompanied by any human rights oversight to prevent trafficking, according to the Organization for Security and Cooperation in Europe (OSCE). The evacuation process has also discriminated against persons with disabilities who have been left behind in dire and dangerous conditions, according to the Human Rights Ombudsman Office of Ukraine. In one institution, they report, 20 bed-ridden people with disabilities were left behind after the rest of the institution was evacuated in August 2014. As of March 2015, only 5 remain alive.<sup>116</sup>

NGOs have moved children and adults to Western Ukraine and across the border to Russia. The Human Rights Ombudsman of Ukraine reports that there is no centralized documentation of how many children and adults have been moved or where they are located, exposing the evacuees to a high risk of trafficking and other forms of exploitation. Many institutions where persons are being transferred are severely over-crowded and ill-equipped, according to activists interviewed by DRI. The Jewish Community Center of Kharkiv reports that 400 people are living in an institution with only 200 beds; the Ombudsman's Office reports that 365 women were moved from Torez in Eastern Ukraine to an over-capacity institution in Sloviansk, on the very edge of the warzone. The end result is 600 persons crammed into an institution with 320 beds in a volatile and dangerous area.

In Ukraine, IOM reports that human trafficking may soon see a sharp increase as a result of a large number of highly-vulnerable persons fleeing conflict-stricken regions to other areas of Ukraine and Russia.<sup>117</sup> IOM has received reports of new flows of trafficked women from conflict areas, as well as girls and women from conflict areas being kidnapped for sexual exploitation by local militants.<sup>118</sup>

There are also documented instances where children have been forcibly moved across country borders from Ukrainian orphanages in the East into Russia, ostensibly for their own protection. In one such case, Ukraine's Child Rights Ombudsman claimed that directors of two orphanages in Donetsk region were being forced "at gunpoint" to hand over children to militants for transfer to across the border.<sup>119</sup>

**Trafficking and sexual slavery are inextricably linked to conflict. [...] Trafficking flourishes in environments created by the breakdown of law and order, police functions, and border controls during conflict. [...] Women and girls who are victims of international trafficking often find themselves forced into prostitution at brothels that service military forces stationed nearby. — United Nations Development Fund for Women<sup>120</sup>**

There is disturbing consensus that peacekeeping operations add fuel to the fire of sex exploitation. The US Agency on International Development (USAID) reports that peacekeeping operations in the Balkans in the 1990s increased international demand for women from Eastern Europe.<sup>121</sup> The International Peace Research Institute elaborated on this issue, explaining that peacekeeper forces were not only involved as customers in the Balkans, but also as organizers of sex trafficking.<sup>122</sup>

Organizations such as Hope and Homes have expressed to DRI an urgent need to prevent an increase in institutionalization as a direct result of Ukraine's current conflict. There is an increasing number of institutions in Odessa and Kharkiv and other cities to which children are being evacuated, they report.

***There are a lot of families who fled the east and they have no money, no place to live, and no job. They decide to place their children into institutions to have them "taken care of" — Hope and Homes Ukraine***

In many cases, parents of children in orphanages retain their parental rights and hope to one day take their children home. DRI was informed by Hope and Homes that many children were evacuated from orphanages in the war-zone without the knowledge or consent of their parents. With borders currently nearly impossible for regular citizens to cross, according to the OSCE, these parents may now be permanently separated from children.

Poor families, as well as those with children with disabilities, face increased pressure to send their child to an institution.

***Institutions are in most cases presented to parents as an opportunity to provide care. They say to them, you can place your child in the institution while looking for a job [...]. — Hope and Homes Ukraine***

According to the Human Rights Ombudsman's Office of Ukraine, there is no coordination of evacuation efforts. Hope and Homes reports that assistance provided to families is short term, including food, medicine and psychological help.

## IV. The Role of International Aid

Ukraine's current system of institutional care has been rebuilt with local and foreign money. International donors have contributed to the existing system of segregation and continue to perpetuate it.

The government of Ukraine and international donors continue to invest considerable amounts of money to preserve, and in some cases expand, institutional care. Every institution visited by DRI in Ukraine has undergone recent renovations— often with the assistance of international donors. While these investments may have dramatically improved physical conditions, opportunities for rehabilitation and inclusion in society remain nearly nonexistent for children and adults with disabilities in Ukraine's institutions.

Several financial disincentives for systems reform exist in Ukraine's current financing structure for institutions. First, all institutions for persons with disabilities in Ukraine

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receive 75% of each resident's disability pension.<sup>123</sup> The use of these significant pooled funds is restricted, and is primarily limited to physical renovation of facilities. The European Union Ad Hoc Expert Committee on Transition from Institutional to Community Based Care found in 2009 that investments in the physical infrastructure of institutions make it more difficult to transition to community alternatives, as officials are hesitant to close newly-funded facilities.<sup>124</sup>

International donors play a large role in the reconstruction of Ukraine's institutions—although their role is often hidden. Cumbersome banking regulations make it difficult for state-run institutions to open foreign currency bank accounts or receive direct financial donations. As a result, most international donors who intend to support an institution will give to a locally-registered Ukrainian charity which then provides in-kind services to the institutions, such as construction or equipment donation. DRI has documented several instances of this financial work-around.

The concerns Ukraine faces are emblematic of a larger problem of segregation throughout the world that must be better addressed by the human rights and international development movement. Worldwide, there are 10 million children in institutions.<sup>125</sup> Scientific evidence demonstrates that raising children in institutions is dangerous and generates increased disability.<sup>126</sup> In addition, children raised in institutions are especially vulnerable to exploitation, violence and abuse.<sup>127</sup> Instead of working to promote community integration, the international development community has often perpetuated the problem. DRI has documented numerous instances around the world where international aid to developing countries has overlooked or actively excluded persons with disabilities from reform programs. DRI's recommendations are based on our international findings over twenty years and are supported by international law and extensive scientific research.

The government of Ukraine expressed a desire in its 2010 National Plan for Action to move away from an institutional care system and replace it with a system of community-based services and family supports.

A commitment by international donors to take a pro-active and inclusive approach to the transition from institutional to community-based care in Ukraine will go a long way toward ensuring that every child with a disability has the opportunity to live a full, meaningful life as a valued member of society.

Unfortunately, foreign assistance programs, especially those packages put together in crisis, often leave out the concerns of children and adults with disabilities who are living out of public view in institutions. Following Georgia's war with Russia, for example, DRI found that the international aid package to Georgia not only failed to address the urgent human rights concerns of people with disabilities in institutions -- international aid programs reinforced segregation by rebuilding and reinforcing old Soviet-era models of service. Instead of protecting rights, international donors rebuilt institutions – some of

which actively continue to deny medical and rehabilitative treatment to people with disabilities.<sup>128</sup>

## A. International consensus against segregation of children

Given the overwhelming evidence about the danger of institutions for children, UNICEF's 2013 "State of the World's Children" report calls for governments to "end institutionalization."<sup>129</sup> The UN General Assembly has called on governments to "plan for the progressive elimination of institutions for children."<sup>130</sup> The UN Convention on the Rights of Persons with Disabilities (CRPD) recognizes that all children with disabilities have a *right* to live in the community and families should receive the support they need to keep their children.<sup>131</sup>

Disability professionals and advocates around the world have reached a consensus that segregated care is perpetuated by well-intentioned but misguided aid.

*Costly improvements in the physical conditions of existing institutions, which are often proposed as a response to findings of substandard care, are also problematic because they fail to change the institutional culture and make it more difficult to close these institutions in the long term. [...] Funds from external donors are frequently used in this way [...]. Often such investment represents a missed opportunity for more systemic change[...].* — European Union Ad Hoc Expert Group on Transition From Institutional to Community Based Care<sup>132</sup>

*The very existence of institutions encourages families to place their children into care, and draws funding away from services that could support children to thrive within families and communities.* — Save the Children<sup>133</sup>

The European Union (EU) has taken heed of the warnings from advocates and researchers. In December of 2013, the EU revised its regulations for international aid through the European Social Fund, mandating that funds "**promote the transition from institutional to community-based care. The ESF should not support any action that contributes to segregation or to social exclusion.**"<sup>134</sup>

Furthermore, the Disability Policy of the United States Agency for International Development (USAID) recognizes that "**in many countries individuals with disabilities have been 'warehoused' in abysmal conditions with total disrespect for their rights.**" USAID does not, however, explicitly ban the use of funding to rebuild or renovate such institutions. In response to DRI's documentation of USAID funds being used to renovate institutions in the Republic of Georgia, the US Senate Committee on Appropriations instructed USAID in 2012 to "**[...] rigorously implement its Disability Policy, which calls for community integration and full participation in society of people with disabilities, and ensure that USAID staff is properly trained.**"<sup>135</sup>

## B. Perpetuation of segregation by international donors

Despite high-level recognition of the dangers of institutional care, EU member States, the US government, and other governmental, religious and individual donors have invested heavily in Ukraine's institutions in recent years.

**DRI has documented European, US and other international donor funds being used to support segregated services.**

In 2014, the World Bank finalized a loan agreement to provide the Ukrainian government with \$20 million earmarked to help reform the country's institutional system of care, beginning with pilot reforms in 4 oblasts of Ukraine. DRI interviews with World Bank representatives in 2015 revealed, however, that the program actively discriminates against children with disabilities. Reform activities required under the plan include closing institutions for children without disabilities and them in family-like alternatives in the community. However, for children with disabilities, the World Bank program seeks only to rebuild and renovate institutions and improve services within the segregated service system.

In addition to future renovations planned by the World Bank program, DRI has documented the following, non-exhaustive, list of examples of international support of institutions in Ukraine:

- **Vilshany Orphanage for children with disabilities**— The Swiss association Network Switzerland-Transcarpathia has donated, according to the director of Vilshany, “less than 5 million UAH (\$625,000 USD)” for the physical renovation of the institution. The institution regularly brings children to assist in fundraising events in the Czech Republic, where it has established a network of 217 high-profile donors. “All the funds we raise are used for renovation here,” the director of Vilshany told DRI.

*Vilshany is located in a remote, mountainous area in southwest Ukraine. In Vilshany, DRI found 67 bedridden children and adults. According to DRI's medical expert, who examined the residents, most are immobile as a direct result of inappropriate and insufficient caretaking. The children, the director told DRI, “don't return to the community because they have nowhere to go.”*

- **Perevalsk Orphanage for children with disabilities**— In 2012, the US Department of Defense (DoD) spent \$420,000 USD to renovate the orphanage's gymnasium. The DoD reports that the orphanage would have been closed if not for the intervention.<sup>136</sup>

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*The DoD opted to invest nearly half a million dollars into an institution when it was on the verge of closure, instead of assisting the 300 children in the orphanage to find families in the community. The children are now at high risk of trafficking, as the facility is located on the Ukrainian-Russian border at a time when conflict is heavy, borders are porous, and governance and oversight are weak.*

- **Turja Remeta Institution for adults with disabilities—** The institution's physical infrastructure was recently renovated using Dutch funds.<sup>137</sup>

*This institution is a former Nazi-run labor camp. 300 men live in the institution. The grounds are surrounded by a high concrete fence as well as a ditch about 6 feet deep (approx. 2 meters). The gate is equipped with security cameras. DRI investigators were refused access.*

- **Myrogogschcha Institution for boys with disabilities—** The director informed DRI that a religious organization from the Netherlands funded physical renovations of the institution. They have also received individual contributions from donors from Sweden, Switzerland, Germany, and Canada.

*According to the director, no community services exist to allow these children to ever live outside of institutional care.*

- **Tyachiv Institution for adults with disabilities--** The newly constructed Uzghorod institution was also funded by Network Switzerland-Transcarpathia. It was built ostensibly as a group home, but houses 25 residents. The director reports to DRI that the institution survives on donations, mostly from Swiss and Czech individuals. The residents are brought abroad to participate in fundraising events.

*In this institution, DRI interviewed a resident who said they were treated in a patronizing way by staff and forced to live their lives to a timetable. She wants to leave, get a job, and live independently.*

- **Ladyzhyn Orphanage for children with disabilities—** The charity Time for Kids is currently constructing a new building on the grounds of the Ladyzhyn orphanage, where most children are considered to be immobile and spend their entire days in beds and cribs.

*DRI investigators observed that both boys and girls, were kept naked from the waist down for the convenience of staff. DRI investigators observed that there was no bathroom for residents. Instead, buckets were kept by their beds. In 2012, staff complained to local press that they literally did not have enough time to feed all the children.<sup>138</sup> In 2013, staff confirmed to DRI investigators that staffing levels are dismal and explained that the new building would make appropriate care even more difficult as the children would be spread out further.*



## Conclusion: funding perpetuates segregation

It is laudable that Ukraine has ratified the UN Convention on the Rights of Persons with Disabilities (CRPD), a human rights convention that commits the country to full community integration of children and adults with disabilities. **However, instead of moving away from segregated services, Ukraine and foreign donors have invested scarce resources into rebuilding the system of orphanages.** With almost no community-based support and care available to children or families in need, many parents have no choice but to give up children with and without disabilities. The existence of clean new buildings, this report shows, has not brought an end to egregious human rights violations in institutions. By directing financial and professional resources to an outmoded and segregated service system, these new investments leave inadequate resources to promote community integration.

Ukraine's government has promised to bring an end its system of orphanages, but there is no national plan to create programs necessary to downsize orphanages or end new placements. **The government of Ukraine and international donors bear responsibility for a system of segregation that leaves children in danger of violence, exploitation, and abuse.**

## Guidance for international cooperation

### i. Take pro-active steps to decrease institutional populations worldwide

Despite international consensus about the dangers of institutions, **the worldwide population of orphanages continues to rise, mainly in developing countries.**<sup>139</sup> Governments should adopt a proactive approach to ensuring that dedicated social programs are funded that contribute to the process of eliminating segregated institutional care for persons with disabilities and creating the community-based services necessary to allow for community integration.

.....

*Commit resources targeted to assisting the transition from institutional to community-based care*

It is not sufficient for international aid programs to support only the creation of positive community programs which support families and prevent abandonment—**targeted aid must also be provided to address the initial transition costs in closing institutions and moving their residents to community-based care in family-type settings.** The European Expert Group on Transition from Institutional to Community-Based Care (EU

Expert Group), commissioned by the European Union in 2009, underlined the importance of planning for the initial investment necessary to close institutions and create alternative community services in their place, stating that: **“These costs have to be built into the budgets accompanying deinstitutionalization strategies.”**

In response to this problem, the European Commission committed a fixed percentage of its total foreign aid to the protection of vulnerable social groups, with a specific focus on transition from institutional to community-based care for persons with disabilities.<sup>140</sup> Other international development organizations are beginning to change as well.<sup>141</sup> Several international and faith-based charitable organizations are shifting their approach from investing in orphanages to investing in families,<sup>142</sup> an approach which require less money to support a child than an institution does.<sup>143</sup> Most international donor countries, including the United States and many EU member states, have not adopted such a policy.

The EU Expert Group stresses that while creating community-based services, reform programs must concurrently close institutions completely; when there are empty beds available in an institution during a partial deinstitutionalization program, there is an inclination for these services to absorb new residents over time.

***The very existence of institutions encourages families to place their children into care, and draws funding away from services that could support children to thrive within families and communities.*** — Save the Children<sup>144</sup>

.....

*Ban the use of international aid in constructing or supporting segregated institutions for persons with disabilities – consistent with international human rights law*

International human rights law establishes the right of children to grow up with a family – as well as the right of persons with disabilities to be fully included in all aspects of society. Article 19 of the UN Convention on the Rights of Persons with Disabilities (CRPD) recognizes the “[...] **right of all persons with disabilities to live in the community, with choices equal to others [...].**”<sup>145</sup> Article 32 mandates that international development programs promote the objectives of the convention.<sup>146</sup> International funding for orphanages and other institutions directly contravenes human rights principles.

International development agencies and private charities can and must be a part of the solution. **Unfortunately, many well-intentioned but misguided donors continue to fund the construction, renovation, furnishing and staffing of orphanages around the world.**<sup>147</sup>

It is important to recognize the dangers of well-meaning efforts to fix up institutions. International donors provide hundreds of millions of dollars across the world in renovating buildings or donating supplies in the hope that they can help vulnerable children in these abusive institutions. In reality, investments in the physical infrastructure of institutions can make it more difficult for a country to transition to a system of community-based services. The EU Expert Group warns that “[c]ostly improvements in the physical conditions of

***existing institutions, which are often proposed as a response to findings of substandard care, are also problematic because they fail to change the institutional culture and make it more difficult to close these institutions in the long term.***<sup>148</sup>

International experience and extensive studies have shown that, even in clean and well-staffed orphanages, children do not get the consistent care that a parent, extended family member, or even a substitute (foster) family can provide in a home.<sup>149</sup> Custodial settings, regardless of how well-managed they are, may cause lasting psychological and physical damage— an infant loses one month of development for every three months it is institutionalized.<sup>150</sup>

In 2013, DRI documented the use of US government funding to build and renovate two new segregated institutions for persons with disabilities in the Republic of Georgia.<sup>151</sup> The US Senate Committee on Appropriations found this use of aid to be inconsistent with US policy.<sup>152</sup>

***US foreign aid to Georgia] resulted in the improper segregation of children and adults with disabilities during a period in which the Government of Georgia adopted a policy of deinstitutionalization for children. The committee directs USAID to rigorously implement its Disability Policy, which calls for community integration and full participation in society of people with disabilities, and ensure that USAID staff is properly trained. — US Senate Committee on Appropriations Report to accompany the 2012 Foreign Appropriations Bill (2012)***<sup>153</sup>

DRI has documented dozens of additional examples where international funders have contributed to the perpetuation of segregated services, including recent examples in Haiti, Ukraine, and Serbia.

The lessons learned from Georgia and elsewhere in the world should be used by international development agencies to develop models and establish guidelines to ensure that international aid does not perpetuate the segregation of children and adults with disabilities, but instead promotes their human right to live a full life in the community.

ii. Ensure that reforms do not discriminate against persons with disabilities

There is a temptation when developing deinstitutionalization programs to focus on the “easier” cases first, and to return to children and adults with more complex disabilities later on. DRI’s experience has shown that it is unlikely that discriminatory reform programs will ever come back to integrate those left behind into the community, a decision which is often rationalized by depletion of funds or flagging political will for reform.

In its 2013 State of the World’s Children report, UNICEF warns that where countries have sought to close institutions and place children in loving families in the community, children with disabilities are among the last to benefit.

***Serbia, for example, began wholesale reforms in 2001. Deinstitutionalization was given priority [...]. Progress ensued, but close examination revealed that***

*children without disabilities had been released from institutions at a much faster rate than children with disabilities [...]. This revelation served to demonstrate the importance of ensuring that reforms are designed and implemented so no children are excluded from progress [...].* - UNICEF 2013 State of the World's Children Report<sup>154</sup>

The EU Expert Group warns that less severely disabled residents in institutions are often key caregivers for those residents with more severe disabilities. A partial deinstitutionalization program leaves those with more complex disabilities with less support and subject to more neglect, abuse and marginalization than ever before. **“These risks must be avoided,”** the expert group asserts, **“by including people with severe disabilities and complex needs from the beginning fully in any deinstitutionalisation effort.”**<sup>155</sup>

DRI's 2013 *Left Behind* found that deinstitutionalization reforms in the Republic of Georgia largely excluded children and adults with disabilities. This exclusion has permitted life-threatening abuse, neglect and segregation to continue in Georgia's orphanages and other institutions. DRI's report demonstrates that it is both discriminatory and dangerous to leave out children and adults with disabilities from these reform programs.

*Georgia has become one of the first ex-Soviet republics to abolish state orphanages in favour of foster care. But disabled children continue to be marginalised and face the prospect of life-long isolation from society.* — BBC World News coverage of DRI's *Left Behind* report<sup>156</sup>

The case studies of Serbia and Georgia provide a key lesson for other countries undergoing deinstitutionalization: **children and adults with disabilities should be included from the beginning of the reform process. The creation of supports which allow all persons to live in a family setting in the community is essential. This is true regardless of the perceived severity of their disability.**

### Endnotes

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<sup>1</sup> European Convention for the Protection of Human Rights and Fundamental Freedoms, 213 UNTS 222, entered into force September 3, 1953 (ECHR). Ukraine became a party to the ECHR on September 11, 1997.

<sup>2</sup> Convention on the Rights of the Child (CRD), adopted November 20, 1989, G.A. Res. 44/25, entered into force September 2, 1990, ratified by Ukraine August 28, 1991.

<sup>3</sup> UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, U.N. Doc A/RES/49/36 (1984), entered into force June 26, 1987, ratified by Ukraine February 24, 1987.

<sup>4</sup> Convention on the Rights of Persons with Disabilities (CRPD), adopted December 13, 2006, G.A. Res. 61/106, entered into force May 3, 2008, ratified by Ukraine on February 4, 2010.

<sup>5</sup> *Guidelines for the Alternative Care of Children*, G.A. Res 64/142, U.N. Dec. A/RES/64/142 (February 24, 2010) (UN Guidelines).

<sup>6</sup> CRPD, *supra* note 4, at art. 19.

<sup>7</sup> UN Guidelines, *supra* note 5, at Section IX “Care in emergency situations.”

<sup>8</sup> Eric Rosenthal, “Helping the children in Ukraine,” *Chicago Tribune*, May 8, 2014, at A21.

<sup>9</sup> Save the Children, “Misguided Kindness: making the right decisions for children in emergencies” (2010).

<sup>10</sup> *Id.* at v.

<sup>11</sup> The United Nations Special Rapporteur on Human Rights, Juan Mendez, has stated that the use of physical restraints or seclusion on people with mental disabilities may constitute torture, even when used for a short period of time. United Nations Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Mendez, A/HRC/22/53, February 1, 2013. The UN Guidelines on Alternative Care take a less strict view toward the use of seclusion and restraint, suggesting that: “The use of force and restraints of whatever nature should not be authorized unless strictly necessary for safeguarding the child’s or others physical or psychological integrity, in conformity with the law and in a reasonable and proportionate manner and with respect for the fundamental rights of the child. Restraint by means of drugs and medication should be based on therapeutic needs and should never be employed without evaluation and prescription by a specialist. ¶97.

<sup>12</sup> See Anna Nilsson, *Who Gets to Decide? Right to legal capacity for persons with intellectual and psychosocial disabilities*, European Commissioner for Human Rights, CommDH/IssuePaper(2012)2, February 20, 2012 (providing detailed recommendations to governments on the implementation of new standards for legal capacity established by CRPD art.12).

<sup>13</sup> See, e.g. Eric Mathews et al., *Left Behind: The Exclusion of Children and Adults with Disabilities from Reform and Rights Protection in the Republic of Georgia*, DISABILITY RIGHTS INTERNATIONAL, 35 (2013), available at <http://www.disabilityrightsintl.org/wordpress/wp-content/uploads/Left-Behind-final-report1.pdf>; Mental Disability Rights International, CHILDREN IN RUSSIA’S INSTITUTIONS: FINDINGS AND RECOMMENDATIONS OF A UNICEF SPONSORED FACT-FINDING MISSION TO THE RUSSIAN FEDERATION (1999); Lumos, IN OUR LIFETIME: THE ROLE OF DONORS IN ENDING THE INSTITUTIONALIZATION OF CHILDREN (2014); N Cantwell, J Davidson, S Elsley, I Milligan I, and N Quinn, MOVING FORWARD: IMPLEMENTING THE ‘GUIDELINES FOR THE ALTERNATIVE CARE OF CHILDREN’ (2012); UNICEF, STATE OF THE WORLD’S CHILDREN 2013: CHILDREN WITH DISABILITIES (2013).

<sup>14</sup> Kevin Browne, *The Risk of Harm to Young Children in Institutional Care*, SAVE THE CHILDREN UK, 2 (2009), [http://www.crin.org/docs/The\\_Risk\\_of\\_Harm.pdf](http://www.crin.org/docs/The_Risk_of_Harm.pdf). See also Corinna Csáky, *Keeping Children Out of Harmful Institutions: Why We Should Be Investing in Family-Based Care*, SAVE THE CHILDREN UK, 5 (2009), [http://www.savethechildren.org.uk/sites/default/files/docs/Keeping\\_Children\\_Out\\_of\\_Harmful\\_Institutions\\_Final\\_20.11.09\\_1.pdf](http://www.savethechildren.org.uk/sites/default/files/docs/Keeping_Children_Out_of_Harmful_Institutions_Final_20.11.09_1.pdf).

<sup>15</sup> UNICEF, Institute of Demography and Social Studies at the National Academy of Sciences Ukraine, and Ukrainian Center for Social Justice, *БІДНІСТЬ ТА НЕРІВНІ МОЖЛИВОСТІ ДІТЕЙ В УКРАЇНІ [Poverty and Unequal Opportunities: Children in Ukraine]*, (2009), available at [http://www.unicef.org/ukraine/2\\_Bidnist\\_i\\_nerivni\\_mozlyvosti\\_NEWDESIGN.indd.pdf](http://www.unicef.org/ukraine/2_Bidnist_i_nerivni_mozlyvosti_NEWDESIGN.indd.pdf).

<sup>16</sup> Eric Rosenthal and Laurie Ahern, “Segregation and abuse in institutions,” in UNICEF *id.* at 46.

<sup>17</sup> UN Guidelines, *supra* note 5.

<sup>18</sup> *Id.* ¶22 and ¶123.

<sup>19</sup> Commissioner for Human Rights, “The Right of People with Disabilities to Live Independently and be Included in the Community,” CommDH/Issue Paper (2012)3, 12 March 2012, recommendation #4 at 5.

<sup>20</sup> On behalf of UNICEF, DRI developed recommendations for immediate low-cost reform of Russia’s orphanages system, including detailed suggestions for community integration that could be taken at a time before new funds were available for reform. See MDRI, CHILDREN IN RUSSIA’S INSTITUTIONS, *supra* note 13, at 25-27.

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<sup>30</sup> *CRPD*, *supra* note 4.

<sup>31</sup> *CRPD*, *supra* note 4, at art.19(b).

<sup>32</sup> UN Guidelines, *supra* note 5.

<sup>33</sup> *Id.* at ¶51.

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- <sup>135</sup> Department of State, Foreign Operations, and Related Programs Appropriations Bill 2013, S. 3241, 112<sup>th</sup> Cong. (2<sup>nd</sup> Sess. 2013) [Committee on Appropriations submitted the Report to accompany S. 3241], available at <http://www.gpo.gov/fdsys/pkg/CRPT-112srpt172/pdf/CRPT-112srpt172.pdf> hereinafter Department of State Appropriations Bill 2013].
- <sup>136</sup> EUCOM, *Ukraine partner together to repair dental clinic, boarding school*, UNITED STATES EUROPEAN COMMAND (Feb. 28, 2012), available at <http://www.eucom.mil/media-library/article/23156/eucom-ukraine-partner-together-to-repair-dental-clinic-boarding-school>.
- <sup>137</sup> Soft Tulip, Road Map to improve Turja Remeta institution in the Carpathian Oblast and the reform of the psycho neurological care in Ukraine, available at: <http://www.softtulip.nl/index.php?a=activities&s=TurjaRemeta>; see also: Soft Tulip, Report on the Visit to Turja Remete, available at: [http://www.softtulip.nl/downloads/20131129\\_Report%20on%20the%20visit%20to%20Turja%20Remeta.pdf](http://www.softtulip.nl/downloads/20131129_Report%20on%20the%20visit%20to%20Turja%20Remeta.pdf)
- <sup>138</sup> Svoboda Slova, *supra* note 74.
- <sup>139</sup> Emily Delap & Chris Saunders, *Enabling Reform: Why supporting children with disabilities must be at the heart of successful child care reform*, BETTER CARE NETWORK, (2012) available at [http://www.crin.org/docs/Enabling%20Reform\\_March2012.pdf](http://www.crin.org/docs/Enabling%20Reform_March2012.pdf). See also Family Matters: A Study of institutional childcare in Central and Eastern Europe and the Former Soviet Union, EVERYCHILD, 5 (2005), available at [http://p-ced.com/reference/Family\\_Matters\\_summary.pdf](http://p-ced.com/reference/Family_Matters_summary.pdf).
- <sup>140</sup> Commission Regulation 1304/2013, *supra* note 23, at 476.
- <sup>141</sup> United Nations Human Rights Office of the High Commissioner (OHCHR), *The Rights of Vulnerable Children Under the Age of Three: Ending Their Placement in Institutional Care*, 16-20 (2011), available at [http://www.europe.ohchr.org/Documents/Publications/Children\\_under\\_3\\_webversion.pdf](http://www.europe.ohchr.org/Documents/Publications/Children_under_3_webversion.pdf).
- <sup>142</sup> Ashley Eure, *Getting to Zero: Rwanda Orphan Sponsorship*, SADDLEBACK CHURCH ORPHAN CARE, <http://orphancareinitiative.com/blogs/main/getting-to-zero-rwanda-orphan-sponsorship/> (last visited Dec. 12, 2013). See also, Jim Luce, *Orphans International Movement to Help Kids Around the World- Including Haiti*, HUFFINGTON POST, (Jan. 15, 2010 02:54 PM), [http://www.huffingtonpost.com/jim-luce/orphans-international-mov\\_b\\_425120.html](http://www.huffingtonpost.com/jim-luce/orphans-international-mov_b_425120.html) (last visited Dec 4., 2014).
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- <sup>145</sup> CRPD, *supra* note 4, art. 19.
- <sup>146</sup> CRPD, *supra* note 4, art. 32.
- <sup>147</sup> *Thank You For Your Interest in Becoming a Founding Sponsor*, AFGHAN CHILD EDUCATION AND CARE ORGANIZATION (AFCECO), [https://www.charityhelp.org/afceco/donation/founding\\_sponsor](https://www.charityhelp.org/afceco/donation/founding_sponsor). See also, *Sponsorships*, DISPLACED ORPHANS INTERNATIONAL, <http://www.displacedorphans.com/make-a-donation.html> (last visited Dec. 12, 2013).
- <sup>148</sup> European Union Directorate-General for Employment, *supra* note 59.

<sup>149</sup> Kevin Browne et al., *A European Survey of the Number and Characteristics of Children Less than Three Years Old in Residential Care at Risk of Harm (2005)*. See also, Corinna Csáky, *supra* note 14, at 19.

<sup>150</sup> UNICEF & OHCHR, *End Placing Children Under Three Years in Institutions: A Call to Action* (2011), available at [http://www.unicef.org/ceecis/media\\_17370.html](http://www.unicef.org/ceecis/media_17370.html).

<sup>151</sup> Eric Mathews et al., *supra* note 13, at 38.

<sup>152</sup> Department of State Appropriations Bill 2013, *supra* note 135.

<sup>153</sup> *Id.*

<sup>154</sup> UNICEF, *The State of the World's Children 2013*, *supra* note 13, at 43.

<sup>155</sup> European Union Directorate-General for Employment, *supra* note 59, at 16.

<sup>156</sup> Rayhan Demytrie, *Georgia's Disabled 'Locked in a Box'*, BBC NEWS, TBILISI (Jan. 7, 2014), <http://www.bbc.com/news/world-europe-25575094>.