

What You Can Do About Alternative Care In South Asia

AN ADVOCACY KIT

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Introduction

Families are the natural environment for children to grow. Children have the right to be cared for by their parents; parents have a responsibility to provide for their children's upbringing and development. These concepts are not new to South Asia – children and families are a traditional cornerstone of all South Asian societies.

Yet there are millions of children in South Asia who no longer have families, who have become separated from their families, or whose families represent a serious danger to their health or development. For these children, States have the responsibility to provide special protection and assistance.

Alternative care refers to the spectrum of services available to children whose parents no longer provide adequate care. Alternative care comes in many different forms. In South Asia, most children outside parental care live with their extended families in kinship care arrangements. Institutional care is the most common type of alternative care provided by the State. In some countries, it is the only option formally supported and recognized by the government. Other types of alternative care, such as adoption and foster care (and many other variations of family - and community-based care) are also practiced to a limited extent. In practice, these types of care and their many variants constitute a full spectrum of alternative care environments known as the continuum of care.

There are growing concerns about the situation of children outside parental care and the provision of suitable alternatives in South Asia. Attention has rightly been drawn to the South Asia region due to large increases in the number of children outside parental care. These children often find themselves at a high risk of violence, exploitation, abuse, and neglect, and their well-being is often insufficiently monitored. An inadequate care environment can impair a child's emotional and social development, and leave children extremely vulnerable to abuse and exploitation, including sexual abuse and physical violence. Institutional care has been noted as a particularly high-risk environment. The reliance of many South Asian countries on this form of alternative care has also raised cause for alarm.

On top of the millions of children already living outside parental care, many more children are at risk. Across the region, the combined impacts of widespread poverty, prolonged armed conflict, frequent natural disasters, and the spread of HIV/AIDS exert extreme pressure on families and communities, as well as on the limited social services available to support them.

In South Asia, children outside parental care and children at risk of separation are in need of protection and support. This short paper aims to provide some insight into the situation of children outside parental care in South Asia, the gaps in existing legislation, capacity, and services, with reference to national and international legal instruments, and the essential actions necessary to improve the systems responsible for providing protection and support.

Children outside parental care - a growing regional concern

Approximately one fourth of the world's child population lives in South Asia. In 2003, there were an estimated 584 million children in the region comprising 40.6 % of the entire population.¹ As of 2003, more than 48 million children in the region had lost one or both parents.² Across the region approximately 8 percent of the total population under 18 is classified as orphans, with national estimates ranging from approximately to 6.5 percent (Pakistan and Sri Lanka) to 13 percent (Afghanistan).³

Not all children outside parental care are orphans. In fact, in South Asia the majority of children outside parental care have living parents. The term “children outside parental care” refers to all children not living with parents, for whatever reason and in whatever circumstances. The wider group of children without parental care therefore reflects an incredible diversity of individual situations including:

- Orphaned children
- Children living in alternative care
- Children associated with armed groups
- Separated or unaccompanied children
- Children affected by HIV/AIDS
- Children living and working on the street
- Child victims of trafficking
- Children with a disability

There are no reliable estimates of the number of children living outside of parental care. However, analysis of proxy indicators suggests that the number is increasing.⁴ Persistent poverty, prolonged armed conflict, frequent natural disasters, the spread of HIV/AIDS, and other social and political disturbances threaten the integrity of families throughout the region.

WHY ARE CHILDREN LIVING OUTSIDE PARENTAL CARE?

There are many factors driving family breakdown in South Asia. Here are a few of the most important ones:

Poverty. Approximately 700 million people in South Asia live on less than one dollar per day.¹ The most vulnerable segments of the population are often the ones excluded from the basic social services necessary to prevent family breakdown.

Armed conflict. Most countries in the South Asia region have experienced one or more armed conflicts during the last decade. Conflict contributes to orphaning, displacement, separation, and may lead to children becoming associated with armed groups. Conflict also leads to increasing poverty, disruption of basic services, and erosion of the social fabric. According to one study in Nepal, 50 percent of internally displaced persons reported that their children were not with them.²

Natural disaster. South Asia frequently experiences natural disasters that devastate families and children. In Sri Lanka, the tsunami of December 2004 killed 30,000 people, destroyed 80,000 households, and displaced 1 million people.³

HIV/AIDS. The spread and maturation of the HIV/AIDS epidemic in South Asia will contribute to a growing number of orphans in the region. There are approximately 7.2 million people living with HIV/AIDS in South Asia.⁴

¹ UNICEF. 2005. The state of South Asia's children 2005. UNICEF.

² SAFHR. 2005. A Pilot Survey on Internally Displaced Persons In Kathmandu and Biratnagar. SAFHR.

³ Norwegian Refugee Council. 2006. Global IDP Project. Online: www.idpproject.org/statistics.htm.

¹ UNICEF. 2005. The state of South Asia's children 2005. UNICEF.

² UNICEF. 2005. The state of the world's children 2005. UNICEF.

³ UNICEF. 2005. The state of south Asia's children 2005. UNICEF.

⁴ UNICEF. 2006. Children outside parental care in South Asian countries. UNICEF. Page 16.

Trends in regional responses – the need for transformation

Kinship care

Kinship care, the spontaneous arrangement of care for a child within his or her extended family, represents the primary response to children outside parental care in South Asia. There are no regional estimates for the number of children in this type of alternative care.

Kinship care often protects child's identity through the preservation family relationships, cultural norms, and social networks. However, living with relatives provides no guarantee of a child's welfare or protection while in care. This form of care is unrecognized by national governments and kinship care arrangements are unsupervised, unregulated, and unsupported across South Asia.

Institutional care

Institutional care has emerged as the main and often the only, unchallenged response for children without parental care in South Asia. All South Asian countries face similar challenges – being too quick to place children in orphanages, allowing poor conditions in institutions, and not offering alternatives.

In contrast to kinship care, institutional care is usually provided and regulated by the government. In most countries, non-governmental organizations also provide institutional care. Nevertheless, all countries in the region lack regulatory frameworks and technical capacity to ensure the quality of the care provided.

There is no reliable estimate for the number of children living in institutions in South Asia. The available evidence suggests that this number is large – and growing. An assessment by UNICEF Bangladesh estimates that there are more than 49,000 children in Bangladesh alone. The Government of Bangladesh recently

CHILDREN IN INSTITUTIONAL CARE

Afghanistan. There are an estimated 8,000 children in institutional care in Afghanistan.¹ A study supported by UNICEF in 2003 showed an annual doubling in the number of children entering institutional care.²

Bangladesh. An assessment by UNICEF Bangladesh estimates that there are more than 49,000 children in Bangladesh. The Government of Bangladesh recently supported the construction of 500 private institutions.³

India. In India, data from Kerala suggests that there are more than 50,000 children in approximately 600 institutions.⁴

Nepal. A survey conducted in 11 (of 75 total) districts of Nepal reported the establishment of 81 new institutions between 2001 and 2005.⁵

Sri Lanka. In Sri Lanka, while government records showed 11,000 children to be living in institutional care nationwide, independent research indicates that there are nearly 16,000 children institutionalized children in just four of eight Sri Lankan provinces.⁶

¹ Islamic Republic of Afghanistan Ministry of Labour and Social Affairs (MOLSA). 2006. *National strategy for children 'at-risk'*. MOLSA.

² Islamic Republic of Afghanistan Ministry of Labour and Social Affairs (MOLSA) and UNICEF. 2003. *Afghanistan country report*. Online: <http://www.children-strategies.org>.

³ Dona, G. 2003. Overview of the conditions of children outside parental care in institutions and communities. UNICEF.

⁴ Government of India Department of Women and Child Development. 2001. *Convention on the Rights of the Child: India - First periodic report 2001*. Government of India.

⁵ New Era and ORC Macro. 2005. *Study of Children in Children's Homes in Nepal*. USAID.

⁶ Jayathilake, R. and H. Amarasuriya. 2005. *Home truths: Children's rights in institutional care in Sri Lanka*. Save the Children in Sri Lanka.

supported the construction of 500 private institutions.⁵ There are similar findings from Afghanistan, India, Nepal, and Sri Lanka. The lack of systems for registering and monitoring institutions means that these numbers are likely to underestimate the actual figures.

The focus on and proliferation of institutional care in South Asia is cause for concern. Institutional care is very rarely the best option for a child's development, and it is not cost-effective. Global and regional evidence indicates that institutional care has detrimental effects on children and society, limiting the cognitive development of children and as a result their social and economic performance as adults.⁶ Nevertheless, it is common to see placements that are not supported by systematic assessments, gate-keeping policies, or care plans.

The most surprising fact about children living in institutional care in South Asia is not that so many children are affected or that in many countries the numbers are growing, but rather that so few of these children are in fact orphans. The available figures all point in the same direction: the majority of children living in institutional care have one or both parents alive. In Afghanistan, Bhutan, Nepal, and Sri Lanka, for example, over 80 percent of children living in institutions have a living parent. In Bangladesh and Pakistan, this number is over 50 percent.⁷ This fact is an important reminder that many children living in institutional care can potentially be reunified with their parents.

Alternatives to institutional care

All countries in South Asia have ratified the United Nations Convention on the Rights of the Child (CRC), which commits the governments to ensuring that institutional care will be used only as a last resort. According to Article 20.1 of the CRC, governments have the responsibility to provide alternative care. However, family- and community-based forms of care, which are almost always better alternatives for children than institutional care, are little explored and promoted in this region.

Domestic and intercountry adoptions are only specified by civil law in India, Nepal, and Sri Lanka. Data on the use of these alternatives is sparse. Between 2001 and 2006, India's Central Adoption Resource Agency reported 14,879 domestic and 6128 intercountry adoptions.⁸ In Sri Lanka, there were only 65 recorded adoptions in 2000.⁹ In Nepal, concerns surrounding intercountry adoption have led to a recent suspension of all intercountry adoption procedures.

The use alternative care is otherwise rare. Adoption is prohibited by Islamic law, which predominates in Afghanistan, Maldives, and Pakistan. Kafalah, which similar to adoption, is permitted in Muslim countries. Foster care is also permitted in India and Sri Lanka, but the lack of effective systems hampers the use of this alternative.

What stands out is that no South Asian country has a way to systematically link children to suitable alternative placements, or to monitor children while they are in care.

⁵ Dona, G. 2003. Overview of the conditions of children outside parental care in institutions and communities. UNICEF.

⁶ For the most comprehensive annotated bibliography of research regarding the negative impacts of institutional care, see: <http://www.crin.org/bcn/details.asp?id=9894&themeID=1003&topicID=1023>.

⁷ Islamic Republic of Afghanistan Ministry of Labour and Social Affairs (MOLSA). 2006. National strategy for children 'at-risk'. MOLSA; New Era and ORC Macro. 2005. Study of Children in Children's Homes in Nepal. New Era and ORC Macro; Jayathilake, R. and H. Amarasuriya. 2005. Home truths: Children's rights in institutional care in Sri Lanka. Save the Children in Sri Lanka; Dona, G. 2003. Overview of the conditions of children outside parental care in institutions and communities. UNICEF; Follow Up Unit, Government of Pakistan Ministry of Social Welfare and Special Education. 2001. Research Study on Orphan Care. Government of Pakistan.

⁸ Central Adoption Resource Agency. 2007. Database: Data on adoption. Online: <http://www.adoptionindia.nic.in/>.

⁹ Centre for Women's Research (CENWOR). 2001. Study on State Receiving Homes, Remand Homes and Detention Centres for Children. CENWOR.

Principles to guide better approaches to children outside parental care

All South Asian countries have committed to international legal frameworks that provide guidance for responses to children outside parental care. The United Nations Convention on the Rights of the Child (CRC), ratified by all South Asian countries, highlights four dimensions fundamental to shaping better approaches to children outside parental care:

1. Children have the right to be cared for by their parents. Parents and relatives are the first line of care for children everywhere. The Preamble to the CRC recognizes that “the family as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children.” Article 7.1 further asserts that a child “shall have the right... as far as possible... to be cared for by his or her parents.”

Parents have a responsibility to provide for a child’s development. According to Article 18.1, “parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and the development of the child.” Article 27.2 further stipulates that “the parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions necessary for the child’s development.”

2. Children have the right to grow up in a family environment. Referring back to the Preamble, the family “should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community.” By Article 5, States are bound to “respect the responsibilities, rights and duties of parents, or where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child.”

The CRC encourages support for parents and families even in specific situations when children may be at risk. According to Article 19.2, “protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have care of the child.” Support may help normalize the situation without removing children from family care.

3. Institutional care is the last resort. According to Articles 20.1 and 20.2, the State has the responsibility to support the provision of alternative care when children are deprived of parental care. “A child temporarily or permanently deprived of his or her family environment, or in whose own interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State. States Parties shall in accordance with their national laws ensure alternative care for such a child.”

Article 20.3 highlights foster placement, kafalah of Islamic law, adoption, and institutional placement as possible forms of alternative care. Institutional care and intercountry adoption are to be used only “if necessary.”

4. All forms of childcare should meet minimum standards. Respect for the rights and interests of the child should be a permanent objective. Article 3.1 stipulates that “In all actions concerning children... the best interests of the child shall be a primary consideration.” Article 3.3 establishes the responsibility of the State to ensure that “The institutions, services, and facilities responsible for the care or protection of children shall conform with standards established by competent authorities.”

Minimum standards should include provisions that support the rights and duties of parents according to the best interests of the child (Article 3), the participation of the child in decisions regarding his or her placement (Article 12), and the right of the child to life, survival, and development (Article 6).

OTHER LEGAL FRAMEWORKS CONCERNING ALTERNATIVE CARE IN SOUTH ASIA

Countries in South Asia have a number of other international legal instruments that expand on the guidance and responsibilities outlined in the United Nations Convention on the Rights of the Child. These instruments support

The South Asian Regional Convention on Child Welfare

- Reaffirms the recognition that the family is the fundamental unit of society and the ideal nurturing environment for the growth and well-being of children.
- Reaffirms the statement of political responsibility to ensure the fulfillment of child rights.
- Asserts the determination of States to facilitate cooperation and regional arrangements to fulfill obligations to protect child rights.
- Highlights universal access to basic services as a regional priority.

The Hague Convention on the Protection of Children and Cooperation in Respect of Inter-country Adoption

- Provides, for the first time, formal international and intergovernmental approval of the process of inter-country adoption.
- Recognizes inter-country adoption as a means of offering the advantage of a permanent family to a child for whom a suitable family cannot be found in the child's country of origin.
- Establishes a minimum set of uniform standards governing international adoptions.
- Establishes a central authority in each country to discharge the duties, role and functions imposed by the Convention (certification, facilitation, information exchange, control to avoid improper gain).

The South Asian Association for Regional Cooperation Regional Strategic Framework

- Holds States accountable to promoting family- and community-based alternative care for children affected by HIV/AIDS
- Calls on States to ensure that institutions are not used as a substitute for family care, or used to gain access to education and other essential services.

The Stockholm Declaration on Children and Residential Care

- Promotes restructuring of the public care system to reduce institutionalization, prevent separation, and provide alternative care, with residential care as a last and temporary resort
- Calls for States to regulate and monitor the provision of public care according to minimum standards in line with the Convention of the Rights of the Child
- Emphasizes the development, financing, implementation, and monitoring of family-based forms of care

Inter-Agency Guiding Principles on Unaccompanied and Separated Children

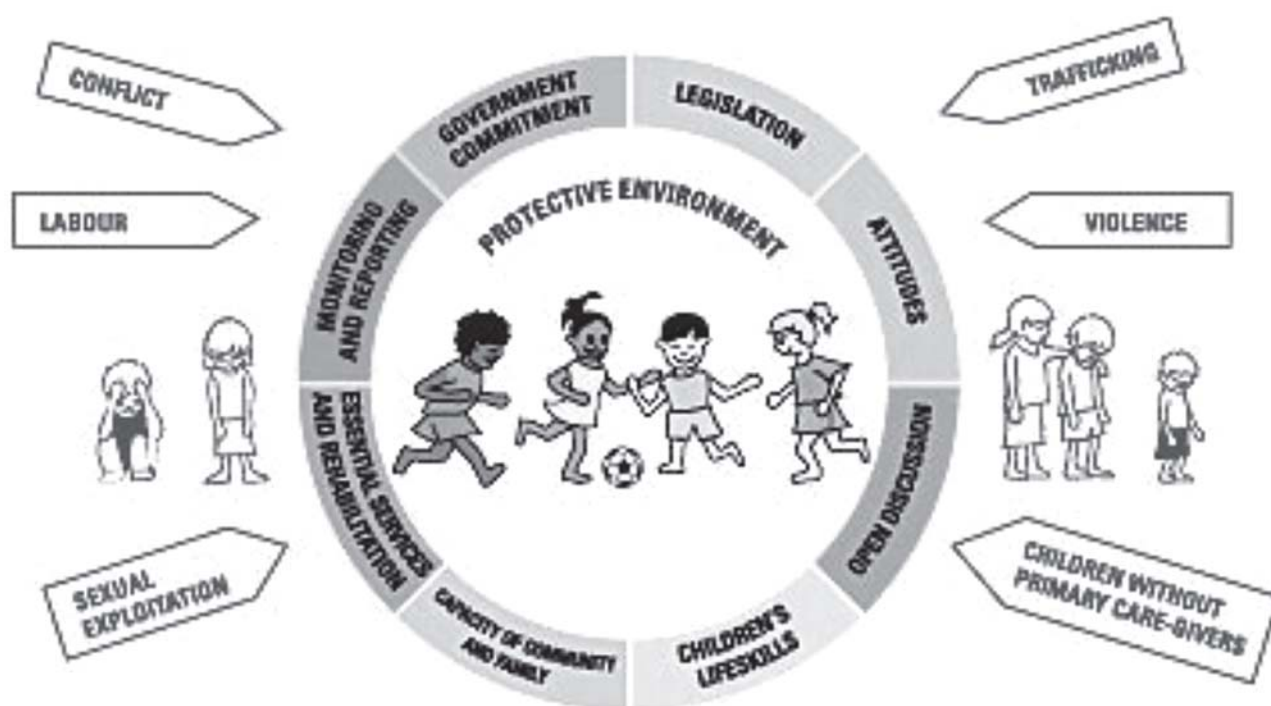
- Provides a clear policy statement on the protection and care of children in emergencies, including armed conflicts and natural disasters
- Reaffirms the principles of family unity, family reunification/reintegration, and minimum recourse to institutionalization
- Asserts a preference for placement of children in their community of origin through alternative family-based forms of care

Building a protective environment

The Protective Environment Framework (Figure 3) applies a human rights approach to child protection by recognizing governments' obligations to protect children while acknowledging the responsibilities and potential contributions of others.¹⁰ Putting this framework into practice requires an increased focus on the capacities, systems and structures needed for protection, and a recognition of children's resilience as well as the importance of their participation. All such efforts need to be underpinned by better monitoring, including disaggregation of data to reflect the different experiences of boys and girls and of children at various ages.¹¹

Using the four dimensions distilled from the CRC above as road map to thinking about alternative care, the remainder of this paper applies the concept of a protective environment to identify the full range of actions needed to improve the protection of children outside parental care in South Asia.

Creating a protective environment is the basis of UNICEF's strategy for protecting children. Children are entitled to grow up in an environment that ensures they are protected. UNICEF helps create a protective environment for children that fortifies them against abuse in the same way that good health and adequate nutrition fortify them against disease. Creating this protective environment is the best way to safeguard children from abuses.



¹⁰ Landgren, K. 2005. 'The Protective Environment: Development support for child protection', Human Rights Quarterly, vol. 27. pp. 215, 227.

¹¹ Landgren, K. 2005 'The Protective Environment: Development support for child protection', Human Rights Quarterly, vol. 27. pp. 227, 243.

What you can do to support children outside parental care: a 10 - point checklist

- 1. Prioritize prevention by supporting families.** Advocate for the importance of keeping children in their families. Emphasize and strengthen legal and traditional priorities for keeping children in parental care. Facilitate collaboration with civil society to plan and implement social protection programmes that enable the most vulnerable families to meet their basic needs.
- 2. Get informed about alternatives to institutionalization.** Use this document and other information to learn as much as possible about the available alternatives to institutional care. Seek innovative, rights-based, and culturally sensitive solutions to supporting families and providing care for children in need.
- 3. Spread the word on the importance of alternative care.** Communicate clearly and fully to your constituencies, your peers, and the public why institutional care should be a measure of the last resort. Let people know what alternatives can and should be available, and why these alternatives are considered to be better for children. Ensure that families and communities know who they can turn to for support.
- 4. Build the capacity of child protection practitioners.** Develop and implement licensed training programmes for social workers at professional and paraprofessional levels. Sensitize police officers, teachers, and government officials about the importance of referral to social work services in child protection cases.
- 5. Put an end to the proliferation and poor practices of institutional facilities.** Push for rigorous registration and licensing procedures that limit the construction and govern the operation of new institutions. Develop and implement standards for existing institutions based on child rights principles and international good practices.
- 6. Initiate government and community-based monitoring mechanisms for all forms of alternative care.** Develop an independent agency to gauge providers' adherence to standards and recommend improvements. Build the awareness among communities and paraprofessionals to help identify at-risk children and report cases of exploitation, abuse, and neglect. Ensure that official structures are in place to follow-up and address referrals of abuse or neglect.
- 7. Mobilize efforts to reunify and reintegrate children outside parental care.** Establish policies, programmes, and partnerships to support the reunification and reintegration of children with their families of birth. Use individual care planning to catalyze thinking about durable and family-based solutions for every child. Ensure that children are included, to the extent possible and appropriate, in devising plans for their care.
- 8. Create a government focal point for alternative care.** Establish a committee or strengthen an existing body to take on responsibilities around children outside of parental care. Elect or appoint a key individual to champion support for families and alternatives to institutional care at the legislative level.
- 9. Lobby for legislation to support child protection.** Within a rights-based framework, push for new or reformed laws or policies that prioritize families, enable the provision alternatives to institutional care, protect children in all alternative care arrangements, and improve support services for vulnerable families trying to cope.
- 10. Promote systemic reform.** Work towards a unified national policy on family support and alternative care, with clear goals and a vision for the future. Challenge yourself to look beyond the "quick fix." Focus on changes that will provide sustainable and systemic progress towards achieving that vision.

Family support

The facts:

The best alternative care systems have the fewest children in alternative care. These systems work to support families and prevent the need for alternative care placements. Family support is about prevention – keeping children in the care of their parents.

Family breakdown is preventable. In countries such as Afghanistan, Nepal, and Sri Lanka, more than 80 percent of children in institutional care have a living parent.¹² In Bangladesh and Pakistan this number is more than 50 percent.¹³ These findings suggest that many instances of separation could be prevented if families received support.

Income poverty is a driving factor for many alternative care placements. Research on children outside parental care in South Asia suggests that income poverty is a key factor contributing to family breakdown and the inappropriate use of alternative care. On its own, poverty is the most common reason cited for institutional placements in the region.¹⁴ Parents who are unable to provide basic food, accommodation, education, and health care for their children may look to institutional care as an environment where these needs will be met.

Poverty is often associated with other factors driving vulnerability and separation. For example, children affected by HIV/AIDS in some states in India have difficulty staying in school due to increased responsibilities at home and a loss of household income.¹⁵ Lack of access to education or health care, often as a result of income poverty, is sometimes taken as a reason for children to be removed from parental care.

What you can do:

Raise community awareness about the importance of family- and community-based care. Many people are not aware of the importance of keeping children in parental care. Sometimes children are removed from families (or relinquished by parents) “for their own good,” as parents may be struggling to provide for them. Broad education campaigns targeting parents, religious officials, and community leaders are important to teach these groups about children’s rights and needs, and the key role of family care in child protection and development. This is important to emphasize: Children have a right to basic services – they also have a right to family care. Governments have the responsibility to support families to defend both of these rights.

Provide parents and children with the tools to stay together. In most cases, children can be effectively supported by empowering parents and families to provide care and protection. Most parents want to keep their children in their families, but feel compelled to relinquish responsibility if they feel they cannot provide for their children’s development.

¹² Islamic Republic of Afghanistan Ministry of Labour and Social Affairs (MOLSA). 2006. *National strategy for children 'at-risk'*. MOLSA; New Era and ORC Macro. 2005. Study of Children in Children's Homes in Nepal. New Era and ORC Macro; Jayathilake, R. and H. Amarasuriya. 2005. Home truths: Children's rights in institutional care in Sri Lanka. Save the Children in Sri Lanka.

¹³ Dona, G. 2003. Overview of the conditions of children outside parental care in institutions and communities. UNICEF; Follow Up Unit, Government of Pakistan Ministry of Social Welfare and Special Education. 2001. Research Study on Orphan Care. Government of Pakistan.

¹⁴ Jayathilake, R. and H. Amarasuriya. 2005. Home truths: Children's rights in institutional care in Sri Lanka. Save the Children in Sri Lanka; Westwater International Partnerships. 2003. Children deprived of parental care in Afghanistan: Whose responsibility? Islamic Republic of Afghanistan Ministry of Labour and Social Affairs and UNICEF.

¹⁵ Sundar, R. The Household Impact of HIV/AIDS on the Education of Children. International Union for the Scientific Study of Population, XXV International Population Conference, Tours, France, 2005, pp. 21-23. Online: <http://iussp2005.princeton.edu/download.aspx?submissionId=50587>.

Family support programming should focus on the root causes of breakdown, and planning should involve an assessment of the needs and wants of vulnerable families.

Use partnerships to bolster family support. All South Asian countries face a challenge to develop ways to identify, reach, and support vulnerable children and families.

Governments may have capacity and willingness to promote family support programming, but the populations most vulnerable and in need of support are often excluded or overlooked by the programmes designed to help them. Civil society, non-governmental organizations, and communities themselves can be mobilized to target the most vulnerable families.

Set realistic plans, goals, and expectations. The scope of available family support in South Asia is limited, and the implementing environment may not immediately understand or support a *preventive* approach to alternative care. This paradigm shift will require a sustained and long-term commitment to strengthening child protection systems and improving social service delivery. This document can help, but engagement, commitment, and time are all necessary to deliver results.

WHAT ARE THE TOOLS FOR SUPPORTING FAMILIES?

Clearly, a diverse range of factors contribute to family vulnerability and breakdown, and the development of family support interventions in South Asia will be shaped by the particular circumstances leading to separation.

Here are some tools that can help:

- **Improve household economic capacity.**
 - Day care services allow parents to work.
 - Vocational training helps parents gain skills for employment.
- **Strengthen and support child care skills.**
 - Parenting education helps caregivers understand children's needs.
- **Provide basic health, education, and nutrition services.**
 - Supported access to essential services avoids the tendency to remove children "for their own good."

Children have options

Even where effective systems function to support families, there will always be a small group of children who are temporarily or permanently in need of alternative care. For the vast majority of these children, family- and community-based alternatives will be the most appropriate option, and these alternatives must be made available. Children have the right to live in families, and governments have the responsibility to provide suitable alternative care for each child who needs it.

Alternative care should mean choices for children. Governments have a responsibility to provide suitable alternative care for every child in need. Article 20.3 of the CRC recognizes four types of alternative care: foster care, kafalah, adoption, and institutional placement. In practice, many variations on these types of alternative care exist. These alternatives often comprise **formal** alternative care, which describes alternative care that is recognized and regulated by the government.

There are also other types of alternative care (or other groups of children outside parental care) not mentioned in the CRC. Most of these are **informal** alternatives, meaning that they are not formally recognized or regulated. An example of this is kinship care, the most widely used form of alternative care in South Asia. Children living on the street or in child-headed households are two examples of groups of children outside parental care who are often forgotten or unrecognized.

Institutional placement is the most common formal response to children outside parental care. However, extensive evidence indicates that institutional care fails to meet the developmental needs of children and often puts children at higher risk for abuse, exploitation, and neglect. Furthermore, the situations facing children in need of care are diverse and the needs of these children vary. Providing only a single type of alternative care cannot adequately meet this range of needs.

What are the alternatives?

Developing an understanding of the different alternative care options is essential to inform improved responses for children outside parental care.

In theory, we use definitions to describe the different forms of alternative care. In practice, however, we see that these definitions cannot account for the vast array of variation in the way that alternative care is provided. While it is important to understand the classifications of alternative care presented here, more important to understand are the basic principles that underpin thinking around different types of care arrangements, as well as the ways that we can apply these principles to innovate and improve alternative care for children.

Informal family - and community-based care

The facts:

Informal care is important. Informal family - and community-based care arrangements are the most common type of alternative care provided in South Asia. In many parts of the world, including South Asia, informal family - and community-based arrangements are the community's traditional response to supporting children living outside parental care. These arrangements are usually spontaneous, and can take place both within the extended family (kinship care) as well as outside the extended family.

In practice, many different variations of informal family- and community-based care arrangements are observed. The law in some South Asian countries specifies detailed priorities governing which family members should take custody of children outside parental care.¹⁶ Children may also be cared for by unrelated members of their communities. In Panjshir province in Afghanistan, an informal “foster care” programme functions to place children in need of care in the community and to subsequently monitor their care.¹⁷

Informal care in the extended family has *real advantages*. As a general rule, placement of a child with relatives is the first choice for children who need care outside their family of origin. Such placements may build on cultural norms regarding the extended family's sense of responsibility for children. They may also preserve existing family relationships and provide continuity of personal and family identity. Where the receiving family lives within the child's community of origin, it may help to maintain a child's own social networks and contact with familiar places such as schools or places of worship.

Informal care in the extended family has *real risks*. While there is a considerable *a priori* advantage for a child to be looked after by family members or others familiar to him or her, kinship provides no guarantee of a child's welfare or protection while in care. These arrangements (and all informal family- and community-based placements) are often subject to less supervision than other forms of alternative care – if they are even supervised or regulated at all. Despite widespread use around the world, informal family- and community-based alternative care, whether within the extended family or outside, is not referred to in any internationally-recognized standards or guidelines.

What you can do:

Provide support for children in informal care arrangements. Informal caregivers may need help and support. Taking on the responsibility of caring and providing for a child comes at considerable expense and can be seen as a burden, leading to mistreatment or exploitation. The financial burden of caring for one or more children, as well as problems linked with size of accommodation, can jeopardize the quality of the care provided.

There is no screening process for informal care arrangements, and these families may be less-equipped to care for the child than a non-relative foster family. Some studies demonstrate that children placed with relatives were less likely to receive health care services than children in traditional foster care.¹⁸ Providing support services for informal caregivers can help overcome the added costs of caring for another child. In Bhutan, where the government recognizes no formal care systems, financial support is provided to extended families caring for orphaned children by the National Women's Association Orphans Scheme.¹⁹

¹⁶ UNICEF. 2006. Children outside parental care in South Asian countries. UNICEF.

¹⁷ Children in Crisis. 2007. Rapid assessment of the foster care system in Panjshir. Children in Crisis.

¹⁸ UNICEF. 2007. Policy brief: The institutional care of children. UNICEF.

¹⁹ Pathak, N. and K. Yonten. 2003. Assessment of the Protection Factors for the Vulnerable Children in Bhutan. UNICEF.

Establish registration systems to promote support and monitoring. Registration of informal care arrangements can facilitate the provision of support services. Registration can also facilitate access to children in order to ensure their protection.

All children outside parental care, including those living in their extended families, are at increased risk of violence, discrimination, exploitation, and neglect. In Afghanistan, for example, proponents of institutional care frequently cite physical abuse and exploitation of children in informal care arrangements as reasons for moving children out of families and into institutional care.²⁰

Many communities in South Asia traditionally view family matters to be of concern only to the family involved. Staff or volunteers who visit the family may need the authority delegated by government or community leaders in order to provide official backing for their role.

The statutory supervision of fitness and performance can dissuade relatives from taking on informal care responsibilities. Supervision services should not be required for a child in informal care unless there is a need for such services, so as not to deter potential caregivers from providing for children in need.

Recognize informal caregivers as legitimate guardians. To ensure protection, there is a need to clearly establish who has responsibility for the care of the child. In the context of informal care, recognition of *de facto* guardianship is needed to ensure that a caregiver is accountable for the development and protection of each child in care.

Legislation can help protect children by providing legal acknowledgement of *de facto* caregivers who are relatives or other members of the community. In the absence of this legislation, governments should nevertheless recognize the *de facto* responsibility of an informal caregiver for the child.

GUARDIANSHIP IN INFORMAL CARE

All children in informal care should have a designated and recognized adult guardian. A child's guardian has the responsibility to:

- Ensure that the child receives appropriate care, accommodation, health care services, education, and psychosocial and language support
- Ensure that the child has access to legal representation as necessary, is consulted in actions by decision-making authorities, and is informed of his or her rights
- Contribute to the identification of a stable care arrangement aligned with the best interests of the child
- Provide a link between the child and organizations that may provide services
- Assist the child in family tracing
- Ensure that family reunification and repatriation, if carried out, are done in the best interests of the child
- As appropriate, assist the child in maintaining contact with his family

²⁰ Wardek Justice Coordination Meeting, 2007. Meeting Report: July 15, 2007.

Foster care

The facts:

Foster care is a versatile family-based alternative. Foster care is defined as the placement of a child who has become separated from his or her family, or who cannot be left with his or her family, in the care of another family or individual. Unlike adoption, it is generally considered a temporary arrangement to be used while the child's own family overcomes a problem that prevents it from offering proper care to the child, or while a more permanent placement is being sought. Foster care generally has no permanent consequences for the legal relationship between a child and his or her biological parents.

In practice, foster care takes many different forms. In some countries the term is used for placement with a family or persons to whom the child is not related, while in others it is used for the formal placement of a child with relatives other than a parent. Sometimes foster care can also become a long-term arrangement.

Furthermore, foster care is not limited to the care of a single child, but can include multiple children in a single foster family. Sometimes foster care for older children takes the form of independent, family-supervised living arrangements. The value of foster care is that it can offer flexible and family-based environment for children outside parental care

International experience can support the establishment of foster care systems in South Asia.

The use of foster care in South Asia is limited, and in many cases (even excluding kinship care arrangements) foster placements are informal. Only India and Sri Lanka provide for foster care arrangements in national legislation.

The CRC refers to foster care but does not detail any guidelines specifically for this type of care. The Guidelines for Practice on National and Inter-country Adoption and Foster Family Care, which were developed in accordance with the CRC and the Hague Convention, serve as a guiding tool for child protection agencies practitioners, and governments to regulate and monitor the foster system. The Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with special reference to Foster Placement and Adoption Nationally and Internationally also provides a series of principles and guidelines for foster care. Together these guidelines set out principles to be observed in foster care placements.

GUIDELINES FOR GOOD PRACTICES IN FOSTER CARE ARRANGEMENTS

- Foster care should be regulated by law.
- Foster care should be temporary in nature and should not prevent the return of the child to his or her parents or prevent adoption.
- Foster care should be periodically reviewed and supervised by a competent authority to ensure the welfare of the child.
- Foster care should not deprive a child of the right to retain his or her identity.
- Inasmuch as foster care within the extended family (also known as kinship care) provides stability, continuity and maintenance of family networks, this form of foster care should be preferred.
- When a durable solution is required, adoption or long-term foster care, as family-based alternatives, should be preferred to institutional care.

What you can do:

Understand how foster care can work in your community. “Foster care” can mean many different things. Its value as a versatile solution for children outside parental care is often not appreciated. You can help expand the range of services provided to children and families by supporting discussion on the ways that foster care arrangements can be used to meet the needs of your community. Remember: Foster care provides a simple, flexible, and family-based solution for children outside parental care. Thinking about foster care arrangements can be an early step towards building the range of alternatives available to children in need.

Promote fostering as a temporary alternative in emergencies. Emergencies and natural disasters are a special case when foster care can be especially useful. Foster care can provide a temporary and family-based alternative for children separated from their families in emergency situations. International experience demonstrates the incredible versatility of fostering arrangements – informal foster care systems have been effectively employed in following natural disasters,²¹ in conflict affected regions,²² and even in refugee camps.²³

²¹ Dacanay, WB., Balanon, LG., del Castillo, MT. and MF. Manuel. 2006. Alternative care for children without primary caregivers in tsunami-affected countries. UNICEF.

²² Children in Crisis. 2007. Rapid assessment of the foster care system in Panjshir. Children in Crisis.

²³ Abdullai, M., Dorbor, E. and D. Tolfree. 2002. Case study of the care and protection of separated children in Sinje refugee camp, Liberia. Save the Children UK.

Adoption

The facts:

Adoption provides a permanent family-based solution. Adoption is a way of providing a new, permanent family to children who have been irreparably separated from their biological family. Adoption establishes legal guardianship for the child to the adopting family. It is a diverse phenomenon, and in some societies there are different forms of adoption that serve different purposes. Some forms of adoption are primarily a way of transferring property; others are a way of consolidating the composition of a new nuclear family (for example, when the spouse of a widowed or divorced person adopts the children of his or her new partner in marriage).

Adoption is generally divided into two broad categories: national (or domestic) and intercountry. Domestic adoption involves the adoption of a child from one country by a couple or individual living in the same country. In intercountry adoption, a child can be adopted by a family living in a country other than his or her own. In South Asia, legal provision for adoption exists only in India, Sri Lanka, and Nepal.

Intercountry adoption is prone to abuse. Article 21 of the CRC contains detailed provisions concerning safeguards that must be respected; the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (the Hague Convention) provides the international standards and conditions for cases where intercountry adoption may be considered.

Kafalah provides a permanent alternative in Muslim countries. Adoption is not recognized by Islamic law, because it is considered because it is considered incompatible with the child's right to identity. Kafalah is a form of alternative care intended to ensure the right of every child to a family environment.

The Declaration on Child Rights and Protection in Islam states that: Islam views the family, based on legal wedlock, as the natural environment for the upbringing of the child, and stipulates that every child has the right to live in a family which is built on mutual amity and compassion, no matter whether it is his or her own natural family or a foster family that provides him or her with kafalah in cases where his or her natural family is lost, or in cases of abandonment by his or her natural family (Principle 6).

GUIDELINES FOR GOOD PRACTICES IN INTERCOUNTRY ADOPTION

According to the principles codified in CRC and the Hague Convention, intercountry adoption should only take place if:

- A central authority in each country exists in each country to oversee the intercountry adoption process
- The central authority establishes that the child is adoptable (see below)
- All options for the placement in the child's State of origin have been attempted the child cannot be suitably cared for in his or her country of origin
- Intercountry adoption is in the child's best interests
- The necessary consent has been given, freely, after counseling (not induced by payment or compensation of any kind, given only after birth, child informed of the effects on his or her future life)
- Consideration has been given to child's wishes and opinions (consent given freely, not induced by payment of any kind)
- Receiving country determines that prospective parents are eligible and suitable to adopt

When it is certain that a child has become *permanently* separated from his or her biological family, the child has a right to a new family environment and adoption becomes the best choice.

As a rule, adoption is not the appropriate solution for children who have been removed from their family because of mistreatment or neglect. In such situations, the child's right to identity and the obligation of the State to protect the family (as set out in the CRC) require that all possible efforts should be made to resolve these problems and to return the child to the custody of his or her parents. Only if it is clear that the problems are beyond solution can adoption be considered appropriate.

What you can do:

Support strong regulatory systems. Ensuring that adoption is appropriate requires a system that functions to effectively assess children's needs and the ability of potential adoptive families to provide adequate care. This system requires a cadre of trained social workers as well as an accountable and transparent mechanism for matching children with parents *according to the needs and best interests of the child*. The interests of the adoptive parents should only be considered as they pertain to the child's own best interests.

Use the Hague Convention as a starting point for good practice in intercountry adoption.

Ratifying the Hague Convention is a first step towards ensuring the protection of children in intercountry adoption. In South Asia, only India and Sri Lanka have ratified the Hague Convention. Nepal recently declared a moratorium on intercountry adoptions, facing international pressure to reform its systems to align them with the provisions of the Hague Convention.

There is a high demand for children in intercountry adoption. This is supported by the belief – among both vulnerable families and those families looking to adopt – that intercountry adoption will provide children with a better standard of living. This can distort the proper functioning of adoption systems by encouraging the disintegration of poor but viable families, and also by encouraging the trafficking of infants for purposes of adoption. South Asian countries that wish to promote intercountry adoption require transparent systems that focus first on a child's rights and best interests.

Institutional care

The facts:

Institutional care should be a last and temporary resort. Child rights principles enshrined in international legal instruments all emphasize the priority of family-based care. Institutionalization should only be used when absolutely necessary, after exhausting other family- and community-based alternatives, and with a view to a permanent, family-based arrangement.

For most children, institutional care is not the best alternative. Childcare institutions are intended primarily for long-term care of the small minority of children who can neither be returned to their own family nor placed in a family- or community-based alternative care arrangement. In South Asia, institutions are commonly used for both long- and short-term care, and placement procedures may not promote investigation of family support or other alternatives.

Institutional care fails to meet children's needs. Mounting evidence from around the world suggests that institutional care has fails to meet children's physical, emotional, and social needs, limiting children's cognitive development and as a result their social and economic performance as adults.²⁴ Institutional care is not conducive to providing the individual attention, emotional support, intellectual stimulation, and moral guidance that children need to thrive.

Reintegration is difficult. In general, institutional care services in South Asia lack mechanisms capacity for reintegrating children into families and communities. This means that children placed in institutional care may stay there for a long time.

Institutional care is about more than just governments. The State bears ultimate responsibility for ensuring that all children without a family receive alternative care, but many different actors also play a role. Across South Asia, institutions for orphans and abandoned children and other children in need of a home can be established and operated by national or local governments, religious organizations, or secular NGOs.

²⁴ For the most comprehensive annotated bibliography of research regarding the negative impacts of institutional care, see: <http://www.crin.org/bcn/details.asp?id=9894&themeID=1003&topicID=1023>.

INSTITUTIONAL CARE: WHAT IS THERE TO WORRY ABOUT?

Global experience teaches us that institutional care has real and negative consequences for children. Some concerns about institutional care include:¹

Psychosocial and developmental implications. While outsiders visiting institutions are often touched by the eagerness of children to grab their hand and get their attention, few realize that these are symptoms of deprivation of contact with adults rather than a signal of spontaneous affection. The negative developmental effects increase the longer a child remains in an institution, and are far more severe in younger children.² One recent study on institutions in Europe, for example, found that young children (0-3 years) placed in residential care institutions were at high risk of attachment disorder, developmental delay, and neural atrophy in the developing brain.³

Family life. Growing up in institutions deprives children of knowing what family life is like and from acquiring the skills that children develop within a family environment. Even in cases where parents would like to keep in touch with their children, the fact that institutions are often unevenly distributed across the territory of a country makes them difficult to reach by families with limited resources. In South Asia the tendency has been towards locating institutions in urban centers. Although the perception is that this eases the ability of families to visit, many of the children in these centers are from distant outlying provinces. Families cannot afford (financially) to support visits to the urban areas to visit their children.⁴

Violence. Children in institutional care are at a higher risk for violence and abuse, especially if they have a disability.⁵ These risks stem from a variety of sources, including staff and other children. Many reports document instances of beatings. No South Asian country has a comprehensive system to monitor institutional care.⁶

Health and Education. A common reason for placing children in institutional care is to improve their material conditions, and sometimes institutions are able to provide well for their basic needs. However, evidence suggests that low standards of safety, hygiene, nutrition, and health care are frequently the norm. According to a report on institutional care in Afghanistan, children are frequently sick, lack access to health care services, and often leave institutions in search of food.⁷

Schooling within institutions may be non-formal (incompliant with national curricula), which can increase the difficulty of reintegrating institutionalized children into the community. In Sri Lanka, children in institutions frequently did not attend school.⁸

¹ Adapted from: Tolfree, D. Community based care for separated children. Save the Children Sweden.

² Pinheiro, PS. 2006. World report on violence against children. United Nations Secretary-General's Study on Violence Against Children.

³ Mapping the number and characteristics of children under 3 in institutions across Europe at risk of harm, EU Daphne Programme 2002-2003, WHO, Copenhagen, Denmark 2004.

⁴ Westwater International Partnerships. 2003. Children deprived of parental care in Afghanistan: Whose responsibility? Islamic Republic of Afghanistan Ministry of Labour and Social Affairs and UNICEF.

⁵ Groce, N. 2005. Summary report – Violence against disabled children. UN Secretary General's Study on Violence Against Children

⁶ UNICEF (2006). *Children outside parental care*.

⁷ New Era and ORC Macro. 2005. Study of Children in Children's Homes in Nepal. USAID; Westwater International Partnerships. 2003. Children deprived of parental care in Afghanistan: Whose responsibility? Islamic Republic of Afghanistan Ministry of Labour and Social Affairs and UNICEF.

⁸ Jayathilake, R. and H. Amarasuriya. 2005. Home truths: Children's rights in institutional care in Sri Lanka. Save the Children in Sri Lanka.

WHY IS INSTITUTIONAL CARE SUCH A COMMON ALTERNATIVE?

There are several factors that contribute to the overuse of institutional care in South Asia:

Weak gatekeeping criteria and processes. Gatekeeping is essentially a combination of criteria and processes designed to target services to a specific group of users. Good gatekeeping governs admission to institutional care by prioritizing family preservation and family- and community-based alternative care, and is important to ensure that institutional care is used as a last resort.

In South Asia, inclusive gatekeeping criteria and processes allow children admission to institutional care without a systematic assessment of a child's situation or consideration of the available alternatives. In Afghanistan, for example, poverty alone is a legitimate reason for admission. Orphaning, which refers to the death of a child's father *but includes no consideration of the child's mother*, is another example of insufficient admissions criteria.

Lack of alternatives to institutional care. South Asian countries lack widespread family support services and alternatives to institutional care, which means that institutional care is often seen as the only recourse immediately available to children in need.

The proliferation of institutional care facilities throughout the region (see Figure 2) constitutes a significant pull factor for inappropriate placements as well. As noted above, families in need often see institutions as an economic coping mechanism – as a place where children can receive schooling, health care, and accommodation. If institutional care is less available to families and communities, they are more likely to consider alternatives that protect the best interests of the child.

Insufficient emphasis on reintegration and permanency. Institutional care is to be a temporary arrangement. Plans for reintegration and permanency support this goal and reflect a child's rights to live in a stable family environment. However, in South Asian countries there are no systematic mechanisms for ensuring that institutional care placements are accompanied with concrete plans for the end of care.

Planning for reintegration and permanency can be supported by the establishment and regular review of individualized care plans for every child. These plans should specifically detail actions to reunify separated children with their families (where possible) and to place children in durable, family-based arrangements.

What you can do:

Focus on alternatives to institutional care. South Asian countries all continue to face the challenge of protecting children outside parental care. Institutional care persists as the dominant response – this is what stakeholders know and understand.

You can help shift the focus to better care alternatives. Avoid supporting the proliferation of institutional care facilities. Instead, promote family- and community-based alternatives. In almost every situation, a better family- or community-based solution can be devised. This document provides a number of options that can be used as platform to develop services that fit the needs of a given situation.

Recognize State responsibilities. As noted above, children living in institutional care are likely to have one or both parents alive. This suggests that good gatekeeping and active family support could help prevent separation and family breakdown. The State has the responsibility to make this happen.

Push for systems that promote diversion from institutional placement by linking admissions and gatekeeping procedures with governmental and non-governmental organizations that can provide support. Mechanisms to provide access to funds for short-term emergency support can also be helpful to support families in crisis.

Promote reunification and reintegration of children in institutional care. The high percentage of institutionalized children with living parents highlights the potential impact of good reunification and reintegration practices.

Family and community reintegration should be a goal for all children. Encouraging consistent contact between children and families can support this process. Also, finding ways to connect institutional care to community-based services (such as schooling) can help children build and maintain links with the community.

MYTHS AND MISCONCEPTIONS ABOUT INSTITUTIONAL CARE

MYTH: Institutions provide a quality substitute for families.

REALITY: Evidence clearly demonstrates that institutional environments fail to meet children's physical, emotional, and social needs. In general, institutions across South Asia are underfunded, understaffed, and overcrowded. Children living in institutions are more vulnerable to exploitation, abuse, and neglect.

MYTH: Family-based alternatives are more expensive than institutional placements.

REALITY: Research shows that institutionalization is much more expensive than family-based care. The high initial and recurring costs of building and running institutions makes them a far more expensive option than alternative forms of care.

MYTH: Efforts should focus on improving the conditions in institutions.

REALITY: The focus should be on families. Family support and family-based alternatives to institutional care are better solutions. For children already in institutional care, reunification and reintegration programmes can help get them out. Experience indicates that even in well-funded institutions, children are vulnerable to abuse and neglect, and their developmental needs are often left unmet. Furthermore, funding is an important pull factor for institutionalization, drawing children away from families who are struggling to provide care. Support for institutions should come in the form of standards, regulations, and guidelines.

MYTH: Poverty is sufficient cause for admission to institutional care.

REALITY: Poverty alone should never be a reason for admission to institutional care. Poverty indicates the need for support at the household level, and does not indicate the need for a child to be separated from his or her parents.

Alternative care gives choices to children

Alternative care is not exclusively limited to the types of arrangements identified in the CRC. Rather, these arrangements specify important points among a diverse array of variations.

The following diagram highlights some of these variations in the context of the alternatives discussed above.

Options that maintain the child in his or her family of origin:

Family support – as discussed previously, support provided directly to families in order to prevent separation of the child. This should be the first priority.

Drop-in/open door centres – a non-residential contact point, where young people can be offered a range of services, advice and guidance.

Family-based options:

Foster care – as discussed in detail above, care within a family, usually of one or two children or siblings. Foster care can be long- or short-term, informal or formal.

Self-selected foster care – a fostering arrangement where a child or group of children identify alternative carers in their community, and future care is agreed with the potential carer, the children and a supervisory agency.

Small group homes – small groups of children living in a family-type environment, with core adults taking on the responsibilities of a permanent substitute parent.

Respite care – short-term care for a child in a family home environment, for example, while a parent is too unwell or while a particular danger to the child can be addressed. The child can receive temporary care until the parent is recovered or the situation resolved, and then returned to his or her own family. Respite care is usually for a period of one to two weeks and can be a planned or emergency response.

Adoption – permanent legal transfer of a child to another family, as discussed in detail above. Adoption can occur nationally (a child stays in her or her country of origin) or internationally.

Independent options:

Sheltered housing – young people or children living independently with a permanent adult worker living independently on-site, available as a mentor for guidance and support.

Supported accommodation – small groups of older children living in separate and independent households but supported by visiting staff on a regular basis – daily, weekly, and as requested.

Supported child-headed households – siblings living as a family, in their own home, with a worker providing ongoing guidance and support. The worker could be supporting a number of such households.

Peer households – a small group of young people choose to live together and are supported in doing so, learning necessary life skills and being offered initial support and guidance towards independence. The contact can be also maintained on an ad hoc basis at the request of the young people.

Making decisions in alternative care

Choices have real impacts on children. Supporting families and providing appropriate alternative care for children requires sensitive decision-making with serious consideration of the consequences for children. Decisions should be guided by child rights principles, informed by a child's individual wants and needs, and supported by technical expertise.

ALTERNATIVE CARE: WHOSE DECISION?

The responsibility to provide care for children lies with a child's parents. Every child has the right to be cared for by his or her parents; parents are responsible to provide for their children.

The State is ultimately responsible for making decisions regarding family support and alternative care for children. The State has the responsibility to recognize parental responsibility, to provide support for families, and to ensure special protection for children in need. On the bottom line, governments are responsible for ensuring that the care and protection needs of children are met.

Children have the right to participate in decisions regarding their placement. Children should be seen as experts in their own situation. Children's views, wants, and needs should be included integral part of any placement decision.

Social workers are critical for good decision-making. Social workers are trained to accurately collect and assess the information relevant to placement decisions. Social workers should be a focal point for assessments of children and families in crisis, and should be accountable for supporting decisions in line with the child's best interests.

Good decision making is supported by strong process frameworks to support a systematic and standardized approach to family support and alternative care placement. These should include:

- **Placement priority principles**, which clearly specify preference placements in a family-type environment – with highest priority for supporting a child to remain in the care of his or her parents.
- **Rapid assessments for entry into care**, conducted by a social worker and including consultations with the child and the child's family, as well as specific details on the alternative solutions proposed
- **Assessment review and placement recommendation** by a team of social workers, to determine the best solution for the child
- **Periodic placement review**, conducted by a social worker, to determine the appropriateness of a given placement in meeting a child's needs, to detail how the child's needs may be changing, and to support progress towards a permanent, family-based solution

Good decision making is supported by strong legislation. All of these processes should be mandated by law.

THREE PRINCIPLES TO GUIDE GOOD DECISIONS IN ALTERNATIVE CARE

The basic principles to guide decision-making in alternative care directly impose the rights of children spelled out in international legal instruments. There are three basic principles that apply.

1. Family-based solutions are generally preferable to institutional placements.

Families are the best place for a child to grow and develop. The CRC emphasizes the fundamental importance of family to a child's well-being. Priority should be given to a child's parents, in line with parental responsibility established in the CRC.

Institutional care is a measure of the last resort. Institutionalization carries a high risk of abuse, exploitation, violence, and neglect, and extensive evidence links institutional care to negative effects on a child's development. The CRC asserts that institutional placement is to be second – only “if necessary” – to family-based solutions such as foster care and adoption.

2. Permanent solutions are generally preferable to temporary ones.

Permanency promotes development. Permanent care arrangements support a child to develop attachments and relationships with adults and with the community. Attachment is important to help a child feel secure and to promote a child's development. Permanent solutions also help maintain a child's right to identity.

Institutional care should never be considered a permanent solution. A “permanent” care arrangement can mean many things, including reintegration into a child's family of origin, adoption, or even long-term fostering. Almost any care alternative can be conceived as a permanent or long-term arrangement. In general, institutional care fails to realize a child's right to family or to provide the attachments and individual attention necessary to support a child's development.

3. National (domestic) solutions are generally preferable to those involving another country.

Children have a right to identity. Keeping a child in his or her country of origin, where possible, helps to maintain a child's heritage and identity. Intercountry alternatives, on the other hand, mean that the child is more likely to grow up in unfamiliar surroundings, where he or she may be more isolated and exposed to risk.

Intercountry alternative care placements are most often discussed in the context of adoption, where several international legal instruments emphasize that domestic alternatives must be exhausted before looking to an international solution.

Regulating alternative care

The facts:

All forms of alternative care require regulation in order to ensure the provision of quality care. A regulatory system relies on:

- **Legislated national guidelines and standards** for the use and provision of quality family support and alternative care services
- **Registration systems for service organizations** to manage the supply of family support and alternative care services in accordance with national policies, guidelines, and standards
- **Independent monitoring systems** to ensure the application of minimum standards and continued provision of quality care

Strong legal frameworks should support all systems for regulation, admissions, and monitoring.

General guidelines and standards should be universal, mandatory, and designed to govern a range of family support and alternative care services. For each type of alternative care, the general guidelines and standards should be supplemented with more specific guidelines, based on the principles discussed in the preceding sections of this document.

Guidelines and standards

Family support and alternative care systems require legislated minimum standards to govern the **use** and **provision** of alternative care services.

Use refers to appropriate referrals to family support and alternative care services, in the context of a child's individual needs and wants.

Provision refers to appropriate elements within a specific service, in line with international legal instruments and best practice standards, designed to promote a child's fundamental rights and meet a child's individual needs.

WHY GUIDELINES AND STANDARDS?

Guidelines and standards function to:

- Target services to specific groups of children, based on a child's individual needs
- Ensure that services are designed to provide care that promotes and protects a child's rights and development
- Support other aspects of a comprehensive regulatory framework, including registration and monitoring, by providing an equitable and transparent approach to defining quality
- Empower service users and parents giving them a basis to judge their entitlement and whether the services they receive are good enough
- Help for governments and service providers to identify and address the major gaps between service provision and policies adopted

GUIDELINES FOR THE APPROPRIATE USE OF ALTERNATIVE CARE SERVICES

Guidelines for the appropriate use of alternative care are tightly linked to the concept of gatekeeping. Gatekeeping essentially entails a set of **criteria** and **processes** used to target a service to a particular group of users. A strong gatekeeping system in alternative care is designed to protect children, first by keeping children in families, and second by systematically ensuring that if children must be placed in alternative care, this care is appropriate for their developmental needs and in compliance with their fundamental rights.

Guidelines for the appropriate use of alternative care support good gatekeeping by:

- Outlining principles that govern the referral and admission to family support and alternative care services
- Specifically stipulating the procedures and actions necessary to place children in alternative care

Guidelines should therefore ensure that:

Family preservation and diversion services are the priority for children and families in need of support. Children have a right to live with their parents. In light of parental and State responsibilities, guidelines for use of alternative care services should establish a clear preference for services that support families and divert entry into care.

Universal placement practices support placements according to the best interests of the child. Every placement should be informed by an individual rapid assessment of the child's situation, including review of the available alternatives. Placements should include individual care planning, which involves the establishment and regular review of an individual care plan for each child in care. All decisions involving a child's care should be supported by participation of the child and his or her family.

Priority placement principles emphasize the priority of parents and families and the specific role family support.

Guidelines for the appropriate use of alternative care should establish clear priority, in line with the CRC and international best practices, for family- and community-based placements over institutional care, for permanent over temporary placements, and for domestic (national) solutions rather than international ones.

STANDARDS FOR THE PROVISION OF ALTERNATIVE CARE SERVICES

Minimum standards establish the baseline for the quality of service provision and should be universally applied to all forms of alternative care in all contexts.

The good practices to be included in minimum standards are outlined below. This list is not at all exhaustive, nor does it provide any specific regulations to follow. For more information, seek refer to the resources section at the end of this document.

<p>Clear aims and objectives of the service, including target population, gate-keeping policies, and diversion procedures</p>	<ul style="list-style-type: none"> ■ Define the role of the organization in meeting needs at the household, community, and national levels ■ Help make appropriate placement decisions - What can this programme do ? Who should be admitted? ■ Act as a baseline against which the operation of the programme can be measured
<p>Sufficient number, type, and qualifications of caregivers, and the appropriateness of the caregivers for serving children</p>	<ul style="list-style-type: none"> ■ Ensure that each child receives individual attention, quality care, and support ■ Ensure that caregivers understand children's needs and behaviours and how to address these
<p>Documented individual assessments and care plans, frequent case reviews, and time-bound plans for end of care</p>	<ul style="list-style-type: none"> ■ Ensure that services promote placements in line with the best interests of the child and his or her evolving needs ■ Support action towards permanency and family or community reintegration ■ Encourage accountability and transparency among caregivers and care organizations
<p>Mechanisms to facilitate family contact and community links</p>	<ul style="list-style-type: none"> ■ Promote a child's right to maintain contact with his or her parents (CRC Article 9) ■ Help a child learn how to function in a family or community environment
<p>Good practices on the discipline and treatment of children, including confidential complaints procedures and clearly defined methods of care, control, and use of sanctions</p>	<ul style="list-style-type: none"> ■ Promote the protection of children in care ■ Help prevent deprivation of liberty and other child rights abuses
<p>Facilities to promote the health and development of children</p>	<ul style="list-style-type: none"> ■ Ensure that children have access to formal education, preventive and remedial health care, adequate nutrition, and housing

Developing guidelines and standards

What you can do:

Recognize that promoting guidelines and standards is a reflection of political will. Push governments to drive this process. Guidelines and standards should be legislated so as to provide legal backing for their enforcement.

Involve key stakeholders to the development process. Encourage consultation with various stakeholders, including government ministries, national and international NGOs, and international experts. Developing standards can be a platform for building stakeholder understanding of the principles and practices that underpin the provision of care.

Remember that guidelines and standards are universal. Questions often arise about the application of standards in the context of poverty. Standards and guidelines are not about material goods; standards are developed to ensure that children are supported sufficiently to fulfill their potential as individuals.

In line with this notion of universality, all actions concerning the development of regulatory frameworks for alternative care should emphasize that:

- The removal of a child from the family is a measure of the last resort and should take place for the shortest possible duration
- Financial and material poverty alone, or conditions directly and uniquely imputable to such poverty, are never adequate justification for the removal of a child from the family, for receiving a child into alternative care, or for preventing reintegration
- Decisions regarding children in alternative care should recognize the importance of ensuring children a stable home and of meeting their basic need for safe and continuous attachment to their caregivers, with permanency being a key goal

Be realistic about implementation. Often limited capacity is an issue for many service providers and standards should be developed in a way that supports the building of capacity and recognizes that many of the people involved in the direct care of children have no formal training in childcare or child development. Application of standards can support programmes to identify areas where capacity should be developed and how this can be achieved.

Early development and dissemination of minimum standards (prior to the development of a systematic monitoring service) can give institutions a head start in self-improvement. Individual caregivers and organizations can use the minimum standards to ensure that their practices are in full compliance.

Alternative care and the protective environment framework

Remember the protective environment framework introduced at the beginning of this document? This framework comprises eight elements that work together to fortify children against abuse.

In summary, let's use this framework to structure thinking and action around children outside parental care.

Here's what you can do to make sure that children outside parental care are supported and protected:

Government commitment and capacity

Ensure that States recognize their responsibilities. All South Asian governments have a responsibility to support families and prevent separation. Governments can work to provide extended child welfare services and poverty reduction initiatives to help families in need. Governments can also promote legislation and policies that emphasize the role, importance, and priority of parents in caring for children.

Make governments leaders in promoting change. Most governments are already working, by varying mechanisms and to differing extents, to support families and provide special protection for children in need. However, there is still much to be done. It is critical that governments take a leading role in actions to prevent and protect children outside parental care. Government support – through appropriate policies, funding and legislation – is vital for establishing and promoting family-based alternatives to institutional care. For children who remain in public care, regulation and monitoring of institutions, in line with agreed national and international standards and the CRC, are essential.

Legislation and enforcement

Push for holistic child care policies in all South Asian countries. Advocating for approaches that shift the focus towards family support, prevention of separation, and family- and community-based alternative care will be difficult in the absence of a coherent national policy to guide system-level responses. National policies should clearly spell out the direction and goals of the government with regard to children outside parental care. Global and regional commitments provide a platform for the development of national policies that promote the support and protection of children.

Use good legislation to support good practices in alternative care. Establishing clear placement priority principles and universal placement practices in national legislation is essential to ensure that children receive support in line with their needs, wants, and best interests. Prevention of separation and family-based alternative care placements are prioritized in both international legal frameworks and best practices, and national legislation must reflect this.

Develop minimum standards as the foundation of quality services. Legislation is necessary to support the development and implementation of standards for the provision of care. Strong legal frameworks should form the basis of all systems for regulation, admissions, and monitoring of family support and alternative care services.

Attitudes, customs, and practices

Ensure that alternative care is focused on families. Institutional care is the most commonly supported response to children outside parental care in all South Asian countries. Many stakeholders — governments, programme planners, and donors — are unaware that alternatives exist. Changing the focus to the development of a range of alternatives – and fostering a widespread understanding of why this is important – is crucial to supporting good practices in alternative care for children.

Innovate and initiate to expand the range of services. Alternative care is culture-sensitive. This document can help as a starting point for learning about the available options and the principles that govern their use, but alternatives that fit the national cultural context are necessary to facilitate support and uptake. Take initiative and provide leadership for this development.

Stop orphanage proliferation. A fundamental shift away from over-reliance on institutional care can be supported by actively discouraging the creation of institutional care facilities. International experience demonstrates that once an institution is built it will be filled, irrespective of children's needs.²⁵ Residential care, when necessary, can take place in small group, family-type settings.

Open discussion

Educate yourself about alternative care. Convincing others of the need to promote family support and family-based alternative care over competing priorities can be difficult, especially because systemic reform requires significant and long-term investments. This document provides a starting point for learning about the components of an alternative care system, the principles underlying good policies and practices, and the risks of undue recourse to institutional care. Use it to improve your own understanding of these issues and to support advocacy for the provision of formal alternatives to institutional care.

Spread the word about alternative care. Communicating your understanding to others is critical to generating support for change. Parents, religious officials, and community leaders, and governments all need to understand children's rights and needs. Take a leadership role in facilitating discussions on the importance of improving and expanding family support and alternative care services for children. Open consultation with key stakeholders is a way to communicate the need for good policies and practices, as well as to identify what kinds of alternative care might work best.

Help the media dispel myths and misconceptions. Sensitize the media to promote messaging about the impacts of institutional care and to educate the public about domestic adoption, foster care, and respect for a child's right to grow up in a family environment.

Life skills, knowledge and participation

Listen to children. Children should be considered experts in their own care. Supporting children to express their opinions is crucial, particularly when parental care is not available. Adults and caregivers should encourage children to express their views and wishes with regard to their care arrangements and should give weight to children's views in decision-making processes.

Ensure that children know their rights. All family support and alternative care services must recognize the need to help vulnerable children protect themselves from exploitation, abuse and the dangers of trafficking and HIV/AIDS.

Promote family and community contact in all alternative care arrangements. Standards for all alternative care arrangements should mandate family and community contact. Families and communities are the basic functional units of all South Asian societies. Interacting with others in a family or community environment – which is not guaranteed for all children in alternative (especially institutional) care – is one of the best ways to help children understand how these structures work.

Capacity of families and communities

Deliver community-based services to support families to care for their children. Day care services can enable parents to work and provide. Legal and administrative assistance for vulnerable families can

²⁵ Parry-Williams, J. 2006. Suggestions for a strategy to develop alternative care and diversion systems through government structures in Sri Lanka. Save the Children in Sri Lanka.

help parents and children access vital services by helping them obtain birth certificates, secure school access, or identify specific resources for children with a disability. Parenting education is essential in the context of alternative care, as caregivers must understand how to provide care for children – especially those children who are vulnerable as a result family crisis or separation from their families of origin.

Build the capacity of a child protection workforce. Social workers are an important component of an alternative care system at the family and community level. Social workers can help families identify problems and seek the support services they need. Social workers are also crucial to other aspects of alternative care, such as gatekeeping, care planning, and monitoring. Promoting social work training programmes will help develop a workforce designed to protect children and support families.

Essential services

Push for universal access to basic social services to prevent separation. Several articles in the CRC stress the responsibility of the State to provide access to basic social services, such as health care and education, and support for basic material needs.²⁶ There are many anecdotal reports of children whose parents relinquish care for their inability to provide for a child's food or education.²⁷

Utilize effective partnerships to bring services to the people who need them most. The populations most vulnerable and in need of support are often excluded or overlooked by the programmes designed to help them, or may be unaware that support programmes exist. Civil society, non-governmental organizations, and communities themselves have the means to target the most vulnerable families.

Mobilize social workers to provide family support. State responsibilities mandate that governments provide support to ensure that children can stay with their families whenever possible. Training and mobilizing social workers is essential to isolate problems at the family level and to promote diversionary approaches that prevent separation.

Monitoring, reporting and oversight

Regulate systems in order to ensure quality care. Standards for alternative care services must be developed and implemented according to child rights principles and international good practices. Priority placement principles and gatekeeping mechanisms are essential to minimizing inappropriate alternative care placements.

Emphasize monitoring to enforce minimum standards of care. Independent monitoring systems based on the minimum standards are necessary to ensure that the standards are enforced. The monitoring authority must have the power to impose penalties on services that fail to meet minimum standards, and must have access to all alternative care environments, irrespective of who is managing or providing care.

Make registration a tool in shaping the package of services provided. Development and implementation of rigorous registration procedures for family support and alternative care can help guide the development of an alternative care system in line with national policies and priorities. In particular, strong registration procedures can stem the proliferation of institutional care facilities, which are prone to overuse across the South Asia region.

Use up-to-date evidence to guide reform. Data collection and analysis on the situation of children without parental care is critical to changing public attitudes, promoting better practices and increasing accountability. National assessments of the demand, supply, and regulation of services can inform strategic development of family support and alternative care systems in all South Asian countries.

²⁶ Article 24 - Health care services, Article 27 - Adequate standard of living, Article 28 - Education

²⁷ Islamic Republic of Afghanistan Ministry of Labour and Social Affairs (MOLSA) and UNICEF. 2003. *Afghanistan country report*. Online: <http://www.children-strategies.org>; Bell, T. 2007. Orphanages in 'children for sale' racket. *Telegraph*, March 10, 2007. Online: <http://www.telegraph.co.uk>.

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August 2008