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'What is important for children is important for humanity'
Alejandro Cussiánovich, an eminent Peruvian pedagogue

EDITORIAL

Call from above? Above the law?

This brief Editorial examines the question of religious-based institutions providing alternative care and adoption services, as well as the nature of the States' ongoing responsibilities, if any, to such children.

Motivations for working with and for children are as varied as the individual children themselves. Nevertheless, one recurring motivation in alternative care and adoption is the higher calling. Whether it be, for example, Buddhist monasteries, Catholic or Evangelical-based care, Koranic schools, etc., the question arises as to whether such service provision should be removed completely from the scrutiny of the State. A delicate balance of respecting such work must be found, whilst ensuring that the State continues to ensure the full protection of children in receiving these services.

Subject to laws of lands?

International standards, such as the UNCRC and the Guidelines for the Alternative Care of Children, decree that, when a child is separated from his or her family, the primary responsibility for providing care is on the State. Yet, this responsibility is sometimes delegated, and, at times by default, provided by religious bodies. Despite international standards dictating that 'the provision of alternative care should never be undertaken with a prime purpose of furthering the political, religious or economic goals of the providers', in practice, tradition, culture and religion can turn the blind eye to this requirement. Should religion trump international standards? On what basis would one effectively weigh such primary motivations? Some may even argue, albeit naively, that we should be comforted that such children are at least being cared for by these 'higher' institutions, receiving an education, etc. This argument becomes even more acute especially when the State does not have the capacity or the willingness to provide such care.



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Subject to laws of the land?

Should religious laws surpass national outworkings of international standards? Shall we leave the child to the 'religion' of the land, for better or for worse? Perhaps an affirmative to such a question would be reasonable, and to a certain degree, compliant with international standards, when the child professes the same faith. For example, Paragraph 88 of the Guidelines notes that 'children should be allowed to satisfy the needs of their religious and spiritual life, including by receiving visits from a qualified representative of their religion, and to freely decide whether or not to participate in religious services, religious education or counselling...'. The answer becomes trickier in cases where the child expresses a different faith contrary to that of the land. Even more challenging are situations when service provision escapes completely from the scrutiny of the State, resulting, for example, in abuse, child labour and sexual exploitation. It is for this reason that the ISS/IRC welcomes the 2018 study by the Ministry of Social Affairs, Veterans and Youth Rehabilitation in Cambodia, which examines, for the first time, community-based care, including in 'Pagodas'¹, and which notes both progress and areas for improvement to avoid such situations (see p. 13).

Subject to one law?

Irrespective of religious laws and customs, the child and his or her family merit utmost protection. The exploitation and harm to children in religious-based institutions or through their activities generally occurs contrary to their very own religion. In principle, no religion encourages a violation of children's rights. The Guidelines, at Paragraph 75, helpfully notes that 'cultural and religious practices regarding the provision of alternative care, including those related to gender perspectives, should be respected and promoted to the extent that they can be shown to be consistent with the rights and best interests of the children. The process of considering whether such practices should be promoted should be carried out in a broadly participatory way, involving the cultural and religious leaders concerned, professionals and those caring for children without parental care, parents and other relevant stakeholders, as well as the children themselves'. Therefore, States should continue to have a role in ensuring that faith-based actors provide alternative care and adoption services consistent with the best interests of children.

The value added of the UNCRC is its promotion of an integrated child protection system, where the State, with robust coordination between all actors, provide services to children (see p. 5). In practice, this requires that the State accredits and supervises all services providers, including those that are faith-based. All are under one law, the full enjoyment by children of all their rights.

The ISS/IRC team,
October 2018

Reference:

¹ 'Pagoda-based care refers to care provided to children by Buddhist monks, nuns and lay clergy, often within a Pagoda setting. Pagoda-based care may include the provision of food, shelter, education, and other forms of care. Pagodas were found to provide care primarily to boys aged 10 and above'. Extracts of the *Study on alternative care community practices for children in Cambodia*, conducted by MOSVY, UNICEF, USAID, CoramInternational, 2017.

ACTORS IN CROSS-BORDER CHILD PROTECTION

- **Benin:** The 1993 Hague Convention entered into force in the country on 1 October 2018.
- **Cabo Verde, Chile, Israel, Malta, Mauritius, Poland, Thailand and Venezuela:** The contact details of their Central Authorities have been updated recently.
- **Bulgaria, Chile and Croatia:** The lists of accredited adoption bodies working in these countries of origin have been updated recently.

Source: Hague Conference on Private International Law.

ISS NEWS

ISS network grows: A new *ad interim* member for ISS France

ISS is very pleased to welcome a new *ad interim* member in France. On 9 October 2018, a cooperation agreement was signed between *Droit d'Enfance – Fondation Méquignon* and ISS in order to initiate a very expected collaboration. *Droit d'Enfance* is a child protection foundation, publicly accredited since 1866, which cares for and supports hundreds of children placed in care by France's social services. It places the best interests of the child at the heart of its intervention, and focuses on preventing placement breakdowns and on supporting families. Furthermore, *Droit d'Enfance* is in charge, together with *CFPE Enfants-Disparus*, of the helpline 116 000, which is aimed at the families of children, who have left home, at parental abduction in France or abroad, or at worrying disappearances of children and young people under the age of 25. Thus, ISS is now represented in France through Ms Sandrine Pepit, the Director of ISS France within *Droit d'Enfance*. Its main role is to coordinate and manage cross-border cases with the ISS network. She also participates and support child protection activities undertaken by the ISS General Secretariat and the ISS/IRC. Dr Fanny Cohen-Herlem will continue to undertake her activities together with the new *a.i.* member of ISS France as a Psychiatric Adviser. She will share her experience and contribute to the various periodic publications of the ISS/IRC, and will also support advocacy efforts and funding requests undertaken by the new *a.i.* member of ISS France.

ISS in Haiti: Workshops of reflexion and exchange on practices for the alternative care of vulnerable children and adoption

Upon a joint initiative of the *Institut du Bien-Etre Social et de Recherches* (IBESR) and the Embassy of France in Haiti, and thanks to the support of partners, such as the *Mission de l'Adoption Internationale* (France), *Terre des hommes* and SOS Children's Villages Haiti, these workshops convened over 50 professionals (IBESR staff, managers of children's homes, representatives of accredited adoption bodies, judges). At the dawn of the fifth anniversary of the law reforming adoption, they were able to:

- (1) assess the progress made and to discuss the remaining challenges to implement adequately the principle of subsidiarity, in particular the implementation of mechanisms of prevention of family separation, the promotion of family and community-based care, and the development of domestic adoption;
- (2) understand the importance of the record-keeping of the child's life story and of drafting social study forms;
- (3) return to the child's adoptability and matching, and develop tools to make matching easier;
- (4) assess the implications of the child's preparation and the responsibility of the managers of children's homes; and
- (5) identify mechanisms for the prevention and management of illegal adoptions.

The ISS/IRC wishes to reiterate its appreciation at the authorities and partners in Haiti and France for their trust, as well as its support to Haiti in moving forward in its progress, in particular in relation to the prevention of family separation and the strengthening of family-based alternative care at domestic level.

ISS's handbook on the protection of children on the move now available in Spanish

Children on the Move. From protection towards a quality sustainable solution. A practical guide is a detailed guide of best practices, which intends to support those working to safeguard migrating children and prevent further trauma due to family separations. Originally developed by the ISS General Secretariat in collaboration with ISS network members, the Spanish translation and distribution have been made possible, in part, through a partnership of ISS-USA with Salina, Kansas-based Saint Francis Ministries and a special grant from the Jessie Ball duPont Fund.

Both English and Spanish versions of the handbook can be found at <http://iss-usa.org/news-press/publications/>.

The ISS/IRC in Guinea Conakry for the training of judges and other actors in child protection

On 18 and 19 October 2018, the ISS/IRC had the opportunity to train a group of 23 actors of the child protection and adoption system in Guinea Conakry. Following the initial training of members of the Guinean Central Authority and social workers in 2017, this new training expanded its target audience to include, amongst others, judges for children, police officers and lawyers. This training took place in the framework of the reforms initiated by the country in child protection as well as domestic and intercountry adoption issues. The following areas were addressed: international standards related to the rights of children deprived of their family, actors and cooperation, adoptability, matching as well as illicit practices in intercountry adoption. The ISS/IRC welcomes the positive outcomes of this workshop as well as the fruitful discussions, and hopes that they will actively contribute to the ongoing reforms.

BRIEF NEWS

Australia (State of Victoria): Remove criminal records of Stolen Generations

In August 2018, the Victorian state government passed the *Victims and Other Legislation Act (2018)*, which will come into force on 4 November 2019. The legislation acknowledges that, historically, child welfare and criminal laws were not clearly differentiated, resulting in care and protection orders being recorded on the subject child's criminal records – a practice that persisted in the state from as far back as 1864 until 1992. The new Act explicitly recognises that: (i) care and protection orders were recorded on criminal records in cases where children had not committed any crime; (ii) had not been convicted or found guilty of any criminal offence; (iii) in many cases were themselves victims of crime; and (iv) faced lifelong adverse consequences as a result of the 'offence' on their record. The Act further explicitly recognises that past state welfare policies of removing indigenous children from their families (which led to the Stolen Generation) meant that Aboriginal children were disproportionately affected by this practice. Upon coming into force, any criminal record that was the result of being the subject of a child welfare order will be expunged from the person's criminal record, and cannot be used as a proper ground for refusing that person any 'appointment, post, status or privilege'.

For further information see:

[http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/PubPDocs.nsf/ee665e366dcb6cb0ca256da400837f6b/F19D8C4064AC7B45CA2582D400815ECA/\\$FILE/581485bs1.pdf](http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/PubPDocs.nsf/ee665e366dcb6cb0ca256da400837f6b/F19D8C4064AC7B45CA2582D400815ECA/$FILE/581485bs1.pdf).

New Zealand brings in paid domestic violence leave: A positive factor towards the prevention of family separation

At the end of July, New Zealand, which has one of the highest rates of domestic violence in the developed world, passed 'legislation granting victims of domestic violence ten days paid leave to allow them to leave their partners, find new homes and protect themselves and their children'. This new protection provision finds echo in the UN Guidelines for the Alternative Care of Children, which state that 'policies should address the root causes of child abandonment, relinquishment and separation of the child from his/her family by (...) promoting measures to combat (...) violence' (Para. 31). The ISS/IRC therefore welcomes this new provision which is a significant step preventing the separation of children from their families due to domestic violence.

Sources: *Domestic Violence—Victims' Protection Bill*,

<http://www.legislation.govt.nz/bill/member/2016/0215/latest/DLM7054366.html>; and "A huge win': New Zealand brings in paid domestic violence leave', *The Guardian*, 26 July 2018, <https://www.theguardian.com/world/2018/jul/26/new-zealand-paid-domestic-violence-leave-jan-logie>.

European Union commitment to 'Ending institutionalisation and strengthening family and community based care'

UNICEF¹ has developed this new publication in partnership with civil society in order to strengthen family and community-based care in Europe. It is now well known and proven that residential care is extremely harmful to children's development². Indeed, family and community based care alternatives not only provide a natural and supporting environment, but also are also more cost-effective³. This publication aims at influencing policymakers, particularly with the view of the EU's next Multi-Annual Financial Framework (2021-2027), in order to strengthen

the commitment to assist governments' transition to family and community-based care. Despite progress in some EU countries, e.g. Bulgaria, Romania and Serbia, 'Europe and Central Asia still has, by far, the highest proportion of children separated from their families worldwide, with 666 children per 100'000 living in residential care – more than five times higher than the global average (...)'.

In its current programme cycle (2014-2020), the EU has prohibited the use of certain funds to build or maintain institutions, but its commitments could be stronger. Deinstitutionalization should be present in 'all relevant EU policies, actions, legislation, actions and funds'. At this end, key actions are suggested, such as to prioritise the transition to community-based care in all EU funds; mainstream family and community-based care into all relevant EU policy area; or clarify the purpose of EU conditionalities that prohibit institutionalisation, etc. **The ISS/IRC welcomes this advocacy tool that calls upon the EU to strengthen its commitment to promote and support family and community-based care, at all levels.**

Sources:

¹ UNICEF (2018). *Ending institutionalisation and strengthening family and community based care for children in Europe and beyond*. Available at: http://www.edf-feph.org/sites/default/files/di_eu_messaging_final_13.06.18.pdf.

² 'Children reared in orphanages had an IQ 20 points lower than their peers in foster care'.

³ In Romania, the World Bank calculated that professional foster care would cost USD\$91 per month, per child (based on 1998 official exchange rates) compared to between USD\$201 and USD\$280 per month/per child for the cost of institutional care.

New Research Handbook on Child Migration

This new Research Handbook is one of the must-read tools for anyone interested in the issue of child migration. Through 'intellectual, empirical and legal resources, [it] probes the origins, characteristics and impacts of current child migration situations'. 'It covers a wide range of topics from the history of specific child migration flows, the ethnography of child migration, and child specific legal tools and challenges, to the psychological effects of migration on child migrants.' Furthermore, Olivier Geissler and Abimbola Lagunju, members of the ISS network, contributed to this handbook on the challenge of strengthening the regional child protection system for children on the move in West Africa.

Further information available at: <https://www.e-elgar.com/shop/research-handbook-on-child-migration>.

LEGISLATION

Comprehensive national protection systems for the rights of the child: The coordination of the State in the implementation of the UNCRC

Rosa María Ortiz, a Consultant, a former member of the Committee on the Rights of the Child and the former Rapporteur on Children's Rights of the Inter-American Human Rights Commission, explains how the comprehensive protection paradigm enshrined in the UNCRC calls for social and cultural changes to effectively put children's rights into practice.

The legal recognition of the rights of the child is not sufficient to ensure the effective exercise of such rights – nor is it sufficient to transform the reality, in which millions of children currently live. The comprehensive protection paradigm is aimed at achieving a social and cultural transformation to ensure the effective exercise of the rights of all children.

The **comprehensive protection of the child** is understood as meaning the recognition of children as subjects of law, ensuring the exercise of their rights, preventing threats or violations to those rights, and guaranteeing their immediate restoration in the best interests of the child.

Undergoing social change is a complex and ongoing process that requires systematic efforts and support from families, society and the State.

Knowledge and understanding of the meaning and implications of these rights – together with a consistent and sustainable State policy – will ensure improvements in the living standards of children. A UNCRC recognising the child as a subject of law would not have been necessary, but to change the way in

A needed social and cultural transformation

which children were being protected across the world.

The Committee on the Rights of the Child recommends, especially in its General Comment No. 5, that States organise themselves in such a way as to act in a coordinated, efficient and timely manner, and not only when violations to such rights have already occurred. Based on this General Comment, several States have been developing comprehensive national protection systems for the rights of the child, in order to ensure the proper operation of the complex institutional machinery, which is required.

For the implementation of a comprehensive national protection system

From the highest levels of government, a comprehensive national protection system ensures the implementation of the national public policy in child protection matters aimed at realising:

- universal rights for all children, with no exceptions;
- social protection policies for traditionally excluded groups, which require affirmative action so the exercise of their rights is ensured, and;
- specialised protection policies for those, whose rights have been violated and must be restored.

Operation of the comprehensive national protection system: A horizontal coordination

A comprehensive national protection system operates at national, regional and local levels, improving the exchanges between state and civil society actors, to ensure the proper exercise, promotion, protection and defense of the rights of children. Its aim is to ensure a horizontal coordination at the three territorial levels of government, always prioritising services at local level, as they are closer to children and their families:

- municipal Councils,
- state / provincial councils, and
- a national council for the protection of the rights of the child.

These Councils provide a platform for dialogue and planning, for example, for authorities traditionally linked to children, health authorities, education authorities, social affairs authorities,

judicial bodies, the police, representatives of organised civil society, churches, community organisations and organisations of children. This is the coordination that the State must ensure in order to provide adequate and timely protection for children with regard to all their rights, starting from their right to a family and community life free of violence; to prevent and address situations of vulnerability and violations of their rights. Such coordination will help transform the traditional services offered by establishments or foundations for poor or vulnerable children, which prioritise placing children in orphanages. The Committee calls on States to act in advance of such measures, providing solutions to the needs of families in the upbringing of their children, through accessible and daily community services.

Operation of the comprehensive national protection system: A vertical coordination

In a comprehensive national protection system, coordination does not only flow horizontally, but also vertically. Municipalities must develop municipal studies and plans for the implementation of children's rights, which must also be submitted to the national council, as that is the body that coordinates all state institutions, and which must approve national policy on children's matters. The national council must respond to such submissions.

As stated by the Committee in General Comment No. 19, States Parties have the obligation to give immediate effect to civil and political rights, and to implement economic, social and cultural rights to the maximum extent of their available resources. This implies that the full realisation of the latter will be progressive, and that it will be necessary to demonstrate, gradually, that the 'maximum available resources' are being utilised.

Obligation to undertake 'all appropriate measures'

Under the UNCRC, the obligation of States to undertake 'all appropriate measures' includes all appropriate administrative, legislative and other measures:

- a) *Laws and policies*: to support resource mobilisation, budget allocation and expenditure for the realisation of children's rights;



b) *Data*: The necessary data and information about children are collected, generated and disseminated to support the design and implementation of appropriate legislation, policies, programmes and budgets to advance the rights of the child;

c) *Public resources*: Sufficient public resources are mobilised, allocated and utilised effectively to fully implement approved legislation, policies, programmes and budgets.

A comprehensive national protection system will allow States to work proactively, striving to involve new actors. A greater involvement will be achieved when the rights of the child and the four general principles of the UNCRC – the right to non-discrimination, the best interests of the child, the right to life, survival and development, and the right to be heard – are more widely known and better understood. These principles form the basis of all decisions and actions of a State, their regular follow-up and accountability to organised society.

PRACTICE

The adopted child when his parents divorce: A psychosocial perspective

Johanne Lemieux, a Social Worker and Psychotherapist specialised in adoption from Quebec, shares her reflections on the impact of parental separation on the adopted child, and gives advice to parents in order for them to help their child to live through this situation as well as possible.

Whatever the reasons for parental separation, the effects are traumatising for the child, whether he is adopted or not. Several factors are intertwined, which can ensure – or not – that the transition period is as painless as possible. However, the risk factors involved when the child is adopted make them particularly vulnerable when facing this ordeal.

What are the main risk factors for the adopted child?

Two principal factors linked to his pre-adoption life:

- the loss of a secure base, where their main needs for survival are met, such as stability at material, physical and emotional levels;
- the loss of many caregivers and/or bonding figures, which may potentially have caused relationship traumas and hypersensitivity to stress.

More than anything else, adoption is envisaged as protection for the child, giving him a physical and emotional environment which is secure and able to alleviate the after-effects of their pre-adoption life. These new parents must allow the child to have faith in their permanent love and

protection, so that he does not simply survive but begins to love and to develop his full potential.

What can be done when the child loses his or her secure base?

Even those parents with the best of intentions will be in an emotional turmoil, overwhelmed with the social, legal and financial problems caused by their separation. They will be concerned by the loss of their own secure base, and therefore will be less available for the child. How can the adult who loses confidence, even if only temporarily, convince the child that their basic needs will ALWAYS be met.

The child will fall back into their survival strategy from the past, which their new parents had managed to soothe, and even totally alleviate, through their sensitivity and attentive presence, and the secure base, together with the bond of confidence and permanent love they had provided. The child is frightened of losing their secure base, of being alone and vulnerable once again. What is to be done?

Divorcing parents together with the social worker/mediator

The couple: *'What should we do so that our adopted child does not suffer from our separation?'*

The social worker: *'It is inevitable that your adopted child will suffer from your separation. The real question is: How can we ensure that the child suffers as little as possible?'*

First: It is most important for the parent to be confident that these reactions on the part of the child are normal, so that he or she can reassure the child concerning their regression. If the parent takes all the required steps, he or she will probably be able to make the child feel secure again. However, this will take time. When parents separate, it is not optional, it is obligatory to adapt to the rhythm and needs of the child! **Then:** The parents must tell the child that he or she, the parent, will always inform them of any decisions which concern them, without burdening them with the problems and uncertainty of the adults. Both parents MUST constantly repeat to the child that they will always meet his or her essential needs. The latter are still their responsibility (not his or hers). His or her two parents, friends, extended family, will always be present; he or she will have a roof, food, clothes, school, a good life, etc. This would appear obvious, but not for a child, who has already lost everything, sometimes several times.



move into a mode of 'avoidance', and will suddenly seem indifferent and autonomous. He or she will show hardly any sign of distress and will not express his everyday needs. The message he or she is sending to his or her parents is that he or she no longer trusts them. If, however, on the contrary, he or she has learnt to exaggerate his or her bonding behaviour, he or she will once again become unpredictable, irritable, with a spirit of contradiction, demanding, in distress and needing constant attention. He or she is telling his or her parents that he must keep them in sight in order to be sure that the bond still exists. What is to be done?

First: Most important of all is not to panic. All the years of parental care are not lost. In the same way that we learn a second language, the child has normally learnt a new language of bonding and reassurance with his or her new parents. However, in moments of great stress, people take refuge in their first language, but they do not forget the second language they have learnt. This second language is temporarily put aside, and returns when the stress lessens. It is therefore important to protect the child from all unnecessary stress, to show empathy and to accept the message conveyed by his or her behavioural strategy of survival. He must be able to realise that the unique, strong, safe and confident bond between him or her and each of his or her parents is permanent. A craft project can illustrate this concept, and reassure the child¹.

What is to be done when the child may lose his or her reassuring, bonding language?

The parents will be anxious when they see the child losing the bond with his or her family, which has been so difficult to establish throughout their life together. The child may also begin, once again, to resort to the insecure bonding language he or she used on his or her arrival in the family.

In the case where the child has learnt to resort less to his or her bonding behaviour, he or she will

No adoptive parent wants his or her child to suffer again from insecurity. Parental separation involves inevitable risk factors. However, the parent can reduce the impact of these factors by establishing as many factors of protection as possible.

References:

¹ Glue on to a large piece of cardboard photos of both parents and the child, and then draw the indestructible bond between mother and child in green, and in red the bond with the second parent. The colours reveal the differences as well as the similarities in terms of the solidity and permanence of the bond built up between the child and each of his or her parents. Then, insist upon and draw the two sorts of bond which exist between the parents: a blue thread for love and an orange thread for the parental team (each bond has its own colour). This indicates that if the blue bond of love no longer exists, the orange bond of the parental team is there for ever. The parents will always take care of him or her even if they no longer live together.

Jonathan Hannay, head of institutional relations at Associação de Apoio à em Risco (ACER Brasil)¹ presents a pilot project on formal kinship care placements launched by his organisation in 2009 in the city of Diadema².

As recognised by the Guidelines for the Alternative Care for Children, there are both formal and informal care settings. Kinship care³ is often one of the first options, whether it is of formal or informal nature. Whilst informal kinship care has been common practice in many parts of the world, formal kinship care models are scarce, which makes the importance of adequate training and existing methodological support by local authorities clear.

Launch of the pilot project

In late 2009, in response to the needs of a group of children and families, with whom it was working in the city of Diadema in Brazil, ACER Brazil designed a pilot project on formal kinship care. This group of children had extremely unstable lives, whose home lives were characterised by high levels of violence and negligence and floated between living with parents, in institutional care, on the streets and living with other family members. Without introducing a stable, family-based life for them, they would have been eternally marginalised. The project started with 45 children removed from parental care and placed with members of their extended families. The pilot project finds its conceptual and legal principles in the Brazilian legal framework, namely the Preamble and Article 19, Para. 3, of the Child and Adolescent Statutes, amended by Law No. 12.010 in 2009, the Brazilian Constitution (Art. 227), as well as Laws on Health and Social Welfare Systems.

The need for formal kinship care

The need to formalise such placements was based on the fact that these children had all suffered multiple violations of their rights – many in their home situation – which required State intervention in terms of protection and supervision. In addition, as per Paragraph 19 of the Guidelines for the Alternative Care of Children, '[n]o child should be without the support and protection of a legal guardian or other recognised responsible adult or competent public body at any time', consequently obliging courts to designate a

legal guardian for the child not living with their parents, even if that person is a close biological relative. This has clear implications for countries, such as Brazil, concerning the need to formalise most kinship care arrangements and to offer a child – who suffered grave violations – as well as the kinship carer necessary support through structured programmes, as foreseen by Chapter IV of the Guidelines (prevention). The latter should, in line with ACER Brazil's approach, also automatically apply to kinship carers, who take care of a child.

Target group and professional team

Families are eligible for the programme if they care for a child of their extended family. The concerned families are split into two groups: prevention work of the child's institutional living, and reintegration of the child into their extended family (after leaving the institution).

The team consists of four family educators, a coordinator and an administrative staff. Each family is monitored by a family educator from the fields of teaching, psychology or social services. All in all, the four educators work 40 hours per week and work with up to 25 guardians or host families. Continued training of the team members and public awareness-raising workshops are essential elements of our mission.

Methodology of the Family Guardian Programme (FGP)

Professional interventions are being undertaken to provide support for family dynamics and to help break the intergenerational cycles:

- *Individual work:* Throughout home visits, the responsible family educator makes a family assessment observing the family dynamic, based on tools, such as a historic genogram, domestic relations genogram, network map and income assessment. The aim is to respond to the following questions: what induced the adult to become the guardian and take responsibility of the child? How is the child responding to the changes in their life (rage, feeling forced, scared, etc.)? In order to understand and perform a therapeutic function, the educator tries to create a bond of affection

Project mission

'To strengthen extended families in order for them to be guardians of children who have either lost or been removed from their parents, being flexible towards change and promoting mutual support.'

and trust, which enables them later on to develop, jointly with the guardian, an action plan to promote the child's emotional, physical and intellectual development. The family educator's role being to support the guardian, the latter remains the person responsible for the final decision-making. In addition, the family educator's interaction with the family is adapted depending on the family's background: mediation, guidance, monitoring, etc. The action plan is then reviewed at six-monthly intervals together with the guardian.

- *Peer education:* As extended families' experiences can involve social exclusion, one way to repair the damage caused by any violation of human rights is to reintroduce a sense of community. The Programme does so by organising outings and meetings with the support group. On a monthly basis, a support group selects topics that are believed to require support. The family educators act as moderators and a specialist in the respective area is invited.



Apart from necessary emotional support, the gathering assures guardians a safe environment (approx. 20-25 guardians), where they can discuss specific matters that they are facing at home and offer guidance and support from their peers.

- *Financial support:* Upon joining the programme, the initial welcome financial aid (250 Brazilian Reais) is intended to help the family pay for start-up costs (bed, linen, etc.) needed to welcome the child. Furthermore, a monthly maintenance payment of 70 Brazilian Reais are given to cover some of the costs.

Some positive outcomes and challenges ahead

While the project started in the southern district of the city of Diadema, it has expanded to the whole city (400,000 inhabitants) and has been replicated in a neighboring city of 570,000 inhabitants. Since the start, the programme has worked with a total of 174 children, 54 of whom have already left it (graduation, independent living, return to birth parents, institutional care or removal due to needed specialist support). Currently, 120 children are being cared for in the programme. One of the biggest challenges is to gather and analyse the outcomes based on the observations of the guardians and the interventions of the family educators. For that purpose, a questionnaire has been developed to capture key information, which are indicators to changes the child's well-being reflected in their behaviour and participation in education, health and other community services.

However, the programme has served as positive example. Indeed, in 2017, the programme has established collaboration with the Ministry of Social Development to develop a national Subsidised Guardianship programme which will be launched soon. As part of the strategy to eliminate institutional care of 0 to 6 years old children, the expected change in the national children's law is an opportunity to recognise kinship care as a separate and formal instance of alternative family-based care option.

As stated by Jonathan Hannay, '[e]xtended families require the aid of specific programmes to support them if they are to effectively break the intergenerational cycles of exclusion, violence and poverty'. The ISS/IRC welcomes this important civil society initiative, and congratulates the Brazilian government for its legal steps forward and commitment to developing a national subsidised guardianship programme on the basis of ACER Brazil's experience.

References:

¹ ACER Brazil was founded in 1993 with the chief mission to offer alternative life to vulnerable young people living in São Paulo. In 2001, the organisation started focusing and dedicating efforts to community development in Eldorado, Diadema, one of the most violent districts of São Paulo. For further information, see: <http://www.acerbrasil.org.br>.

² A detailed article of the programme can be requested at the ISS/IRC.

³ Family-based care within the child's extended family or with close friends of the family know to the child, whether formal or informal in nature (as defined in Para. 28 c)i) of the Guidelines for the Alternative Care of Children.

Council of Europe's Strategy for the Rights of the Child 2016-2021: The role of the Ad Hoc Committee on the Rights of the Child

Regina Jensdottir, Coordinator for the Rights of the Child at the Council of Europe (CoE), presents the work of the CoE and its Ad hoc Committee for the Rights of the Child (CAHENF)¹ to strengthen access to rights for children in alternative care and children affected by migration.

The CoE supports Member States in upholding the rights of every child within a State's jurisdiction, as required by the European Convention on Human Rights. The [CoE Strategy on the Rights of the Child](#) (2016-2021) identifies five priority areas to guarantee the rights of the child, namely: equal opportunities for all children, participation of all children, a life free from violence for all children, child-friendly justice for all children, and the rights of the child in the digital environment. The [CAHENF](#)² guides the intergovernmental work of the CoE in the area of the rights of the child and oversees the implementation of the Strategy, supported by thematic working groups³.

Implementing the CoE Strategy and upholding the rights of children in specific vulnerable situations

Such implementation depends on many actors: Member States, international organisations, civil society, ombudspersons for children, professionals working for and with children, academic networks and actors, the private sector, and children themselves.

The CoE focuses action on children in situations of particular vulnerability, including children in alternative care, children in migration and children victims or witnesses of violence. Indeed, children in alternative care risk being exposed to instability and have been found to be more likely to have a mental health difficulty. Likewise, children on the move or otherwise affected by migration are acutely vulnerable to discrimination and all forms of violence, they also face barriers in access to rights, notably due to lack of child-friendly information, that is information given in a language that they can understand, which is adapted to their age, maturity, culture and gender. Enhancing implementation of international and CoE standards to protect children from violence in Member States⁴ is also a major area of focus, together with actions to



empower children to exercise their rights in the [digital environment](#)⁵.

The participation of children is key in the strategy. Children have been involved, and have provided their views and recommendations to policy makers in the elaboration process of guidelines on their rights in the digital environment, on what constitutes child-friendly information in the context of migration, and will be consulted on age assessment. Furthermore, an assessment tool has been developed to support the implementation of child participation by Member States.

The role of CAHENF in the specific area of protection of children in alternative care

To reach these objectives, tools have been developed through cooperation projects of the CoE and disseminated by the CAHENF, amongst others to guarantee the rights of [children living in alternative care](#). Jointly with SOS Children's Villages, the CoE has developed training modules and recommendations on securing children's rights in alternative care, for professionals, which were piloted in seven Member States. The training modules are based on the publications [Securing Children's Rights](#) and [Discover your Rights](#), currently available in 12 languages. These tools seek to implement the standards set down in key CoE recommendations on children in alternative care.

The role of CAHENF in the specific area of protection of migrant children

In the framework of the CoE's [Action Plan for the Protection of Refugee and Migrant Children](#) (2017-2019), the CAHENF has been tasked with preparing guidelines for an effective guardianship of unaccompanied and separated children in the context of migration, as well as human rights principles for age assessment of children. These two instruments will provide guidance to Member States on how to implement their obligations in this area while upholding these children's rights.

In addition, the CAHENF will review the implementation of the Committee of Ministers' [Recommendation on Life Projects for Unaccompanied Migrant Minors](#). This recommendation includes policy solutions to develop durable solutions, with the participation of the child concerned, and is accompanied by a [handbook](#) for professionals. The CAHENF

initiatives also contribute to the Parliamentary Assembly of the CoE's [Campaign to end immigration detention of children](#), through tailored tools for parliamentarians and other professionals. A handbook for professionals on child-friendly information for children in migration will be published in the second half of 2018.

All children are rights holders; however, many children face acute challenges in accessing their rights and child-friendly procedures. The CoE, together with the CAHENF, provides guidance and practical tools for States and stakeholders to uphold the rights of children, especially those in vulnerable situations.

References:

¹ For further information, see: <https://www.coe.int/en/web/children> and/or contact children@coe.int.

² CAHENF is composed of representatives of the CoE Member States (47), observer States, relevant CoE bodies and child-rights NGOs, and meets twice a year.

³ CAHENF-IT (focus on children's rights in the digital environment), [CAHENF-VAC](#) (support to member States in the development of responses to protect children from violence) and [CAHENF-Safeguards](#) (focus on safeguards for children in the context of migration).

⁴ Tools include the [CoE Policy Guidelines on integrated national strategies for the protection of children from violence](#) and the development of a clearinghouse providing access to existing national strategies promoting an integrated approach to protection from violence and a platform for peer-to-peer support for policy-makers.

⁵ Specific tools for children in the digital era developed by the CoE include: a [handbook on internet literacy](#); and [Recommendation CM/Rec\(2018\)7 of the Committee of Ministers to member States on Guidelines to respect, protect and fulfil the rights of the child in the digital environment](#).

INTERDISCIPLINARY RESOURCES

Australia: Research on the impact of separation or divorce on foster care and adoption

Damien Riggs, Associate Professor at the College of Education, Psychology and Social Work at Flinders University, in South Australia, and Stacy Blythe, Senior Lecturer at the School of Nursing and Midwifery, Western Sydney University, present a brief summary of their study on the experiences of separation and divorce among foster and adoptive families¹.

Like all couples, foster or adoptive parents may experience separation or divorce. Yet, very little research has focused on the experiences of this population. Drawing on survey data and public forums, we sought to consider how foster or adoptive parents experience separation or divorce. We are happy to present this research on a theme which has not been frequently studied and whose impact on the adopted child needs to be given attention.

Foster parents' perspective

Our survey findings indicated that foster parents experienced considerable variability in terms of responses from statutory agencies. For some participants, agencies were supportive of the

separating family, whilst for other participants, agencies sought to remove children when a separation or divorce occurred.

'Some workers really normalised the experience and offered whatever support we wanted. Others almost seemed to discredit us, to the point where we felt concerned about whether they might end the placement.' (Foster parent)

Adoptive parents' perspective

For some adoptive parents, who voiced their thoughts about separation or divorce in public forums, there was a concern that separation or divorce might compound traumas already experienced by adopted children. Some also noted that they felt alone in adoption

communities, where separation or divorce was rarely spoken about.

'To have been adopted and then become a child of divorce has added another layer of complexity to my daughter's struggles... I worry that I've further undermined her already fragile sense of belonging as an adoptee.' (Adoptive parent)

Adoptees' perspective

Adoptees, however, who voiced their views about separation or divorce in public forums, questioned the assumption that all adoptees are inherently traumatised, and that separation or divorce would compound this. Adoptees viewed separation and divorce in all families as a challenging experience, but suggested that experiences were likely similar across family forms.

Separation or divorce within foster and adoptive families is an issue that must be further reflected upon and researched. The development of tools is necessary to better train and harmonise the practices of professionals, who work on these situations, and to determine all the possible measures for the placed or adopted child to suffer as little as possible (see p. 7).

Reference:

¹ *Experiences of separation and divorce among foster and adoptive families: The need for supportive responses.* Available at: <http://journals.sagepub.com/doi/abs/10.1177/0308575916681715> and <http://journals.sagepub.com/doi/pdf/10.1177/0308575916681715>.

Cambodia: Two new reports on alternative care and family support, foster care and adoption

The first study evaluates the different types of alternative care in Cambodia in order to assess the alignment on the implementation of the 2008 Minimum Standards of Alternative Care for Children and the second study is a capacity development plan aimed at accelerating the child welfare reform in Cambodia.

The first study, *Study on alternative care community practices for children in Cambodia*¹, commissioned by the Ministry of Social Affairs, Veterans and Youth Rehabilitation (MoSVY), and undertaken by UNICEF, USAID and CoramInternational, was the first of its kind on the use of alternative care in Cambodia. For the second study, *Capacity development plan for family support, foster care and adoption in Cambodia 2018-2023*², the MoSVY, UNICEF and USAID commissioned the Permanent Bureau of the Hague Conference on Private International Law and ISS, to conduct an assessment study on the achievements and challenges of family support, and to develop a capacity building plan to accelerate the child welfare reform in Cambodia.

'I was adopted at birth, an only child and my parents divorced when I was 12. Yes, it was extremely painful, but my status as an adopted child didn't enhance my pain or make it somehow different.' (Adoptee)

Need for guidelines

The findings highlight the need for statutory agencies to have clear guidelines about how to handle separation or divorce in foster families, and that this should not be a determining factor in terminating a placement. The findings also pointed towards the need for support for both foster and adoptive families experiencing separation and divorce, especially where community groups may be less than understanding. This support should be extended to all members of the foster and adoptive family.

A variety of forms of alternative care in Cambodia

Kinship care has always been a traditional mean of caring for orphans, as well as *pagodas*, religious institutions with an educational purpose. However, the Khmer rouge area had an impact on kinship care, because it altered the whole concept of extended family. The year 2006 has been a pivotal moment as the government issued a Policy Paper on Alternative Care for Children in need of Special Protection and Children at Risk. Since then, the Government continued to emphasise its support and preference for family-based care options and has worked with aid organisations and NGOs to promote its policies.

The study has analysed the different types of alternative care as follows:

Kinship care: The study comes to the conclusion that this form of alternative care is a prevalent practice for children whose parents broke up, for double or single orphans and for children of migrants. Kinship care agreements are generally informal. Sometimes NGOs intervene but there is no professional assessment of the ability of the kinship carers. Visits by social workers are rare. Only 20% of the kinship carers receive any training and material support is rare, regular payments do not exist.

Foster care: The study reports that the number of foster families is small and that the foster parents consider the situation as permanent. Some foster carers take care of a very large number of children. Most placements involve NGOs and foster families seem to be well monitored, even if placements often happen on an *ad hoc* basis. Foster families sometimes change the child's name on the birth register. Foster families receive financial aid.

Pagoda-based care: Most of the children in *pagodas* are boys older than 10 years old. Identification and placements are informal, but most children come to receive an education, some to become monks. Material conditions in *pagodas* are often poor and the supervision is minimal. Abuses are an issue. *Pagodas* with more than 10 children should employ a full-time trained social worker.

Group homes: Group homes cover different alternative care arrangements and often take place before other family-based care options have been exhausted. The monitoring seems to function well and material conditions, as well as access to education improved.

Residential care institutions and boarding schools: The distinction between the two is not clear in practice. The study mentions that there has been a significant reintegration effort for children in residential care and caregivers have received training.

Challenges and recommendations

In conclusion, the study regrets the lack of registration of children in kinship care or foster families, and the lack of assessment, preparation

and support of the carers. It mentions that additional challenges impact on family separation, the provision of alternative care and the number of children entering the care system: the lack of a state financial 'safety-net' for parents, the lack of family support services, and the costs associated with education.

Among many recommendations, the study insists on the necessity to develop a strategic plan for development and delivery of child protection case management services in the districts over the next five years, on the need for more social work staff and on the necessity to train para-social workers.



Capacity development plan for family support, foster care and adoption 2018-2023

The second study reminds us that 5,8% of children under 18 had lost one or two parents and that the *Prakas* clearly outlines the duties of the government representatives to visit children at **risk of separation**. However, the implementation of this prevention is difficult, due to the lack of adequate resources and trained social workers.

Children in Cambodia are very vulnerable, due to the high poverty rate and the risk of abuse, violence and neglect is important. The **residential care** institutions have recently increased (639 in 2017) and operate without any approval. The MoSVY is aiming to reintegrate 30% of children by 2018, and a Sub-Decree on the Management of Residential Care was approved in 2015. **Intercountry adoption** started in Cambodia in the mid-1980s, and in the 1990-2000 decade, the number of overseas child adoptions increased exponentially. After a moratorium by some countries, a new law was endorsed in 2009 and must now be effectively implemented.

The second study identifies key findings and recommendations for short-term implementation (up to 2018), medium-term implementation (up to 2023) and long-term implementation (after 2023), and proposes the development of standards on domestic adoption, a review of the Policy on Alternative Care for Children 2006, a review of the Minimum Standards on Alternative Care for Children 2008, and a review of the *Prakas* on the implementation procedure of the Policy on

Alternative Care for Children 2011. The study's 23 recommendations focus on several issues: child protection in general, family support, foster care, adoption, domestic adoption and intercountry adoption. The first recommendations focus on the importance of identifying the children, who are at risk of separation, of building up a social workforce, of encouraging and supporting parents to care for their children. and introducing effective gatekeeping mechanisms. Intercountry adoption should be integrated into the child protection system, with domestic family-based care solutions being prioritised. Finally, the existing legal framework must be adequately implemented by trained professionals.

Next steps

Both studies represent significant steps forward in terms of family support and and for the development of domestic family and community solutions. They will allow professionals to have a better view of the situation of children in Cambodia and to implement effective measures for their protection and that of their families.

References:

¹ *Study on alternative care community practices for children in Cambodia*, commissioned by the MoSVY, conducted by UNICEF, USAID, CoramInternational, 2017. Available at: https://www.unicef.org/cambodia/Alternative_Care_Community_Practices-EN.pdf.

² *Capacity development plan for family support, foster care and adoption in Cambodia 2018-2023*, commissioned by the MoSVY, conducted by the Permanent Bureau of the Hague Conference on Private International Law and ISS, 2017. Available at: https://www.unicef.org/cambodia/DEVELOPMENT_PLAN_EN_LOWRES.pdf.

READERS' FORUM

India: National advocacy for policy and practice change in foster care and family-based care

Ian Anand Forber-Pratt¹, Global Director of Advocacy of Children's Emergency Relief International and intercountry adoptee from India raised in the USA, explores bridging the gaps between policy and practice in child care reform for one-sixth of the world's population.

1. What has happened since the publication of your foster care programmes in 2014²?

Since the publication of our initiated foster care project in Rajasthan, our journey has increased as well as the implementation of our lessons learnt. We are therefore happy to share the following update. Since 2014, our work received attention at national, regional and global levels, and has allowed the government to draft the first national foster care guidelines as well as sponsorship and family support guidelines. Some of our outcomes include:

- Training of over 10,000 national/state/district government officials and of 1,000 local organisations on foster care;
- Official notification on drafting committees in eight States/union territories and of first national foster care and sponsorship guidelines;
- Adopting organisations throughout India to hand-hold during the transition from institutional to family-based care;
- Supporting some of India's first foster families in behavioral management, educational advocacy and individual child planning.

2. Would you say that foster care is better known in India today?

When our team first recruited foster families in Rajasthan, we reached out to 250,000 people, who were invited through a global campaign to receive information. 67 responded positively and two became foster families. Nowadays, the team again reached out to a more targeted group of 300 people, 100 were interested, and 10 are on track to become foster parents. The keys? Awareness, legislation, experience.

Since 2011, the discussion about foster care and family-based care has drastically increased in the news in India³. The reason can be traced to the fact that India has redrafted almost all of the children protection legislation in the past five years. These redrafts clearly pivot on institutional care as being the last resort for children, and the primary duty of care and protection of children in society both by the family and the State. However, foster care still remains a concept that is little known in India at all levels.



3. Are there currently other forms of family-based care in India?

In the midst of the almost complete legislative change, we realised two important elements:

1. The gap was profound and dangerous between the legislation and the capacity to implement new legislation;
2. One way of caring and protecting children could never be enough, which is why we expanded our work to include family strengthening, aftercare and specialised small-group settings for children.

At the foundation of this expansion of our work are the family-based care services in India's foundational legislation, the *Juvenile Justice (Care and Protection of Children) Act, 2015* (JJ Act). The main provisions include sponsorship, foster care, group foster care, adoption, aftercare and institutionalisation. We now put focus on sponsorship, as it is defined in the JJ Act, which 'means provision of supplementary support,

financial or otherwise, to the families to meet the medical, educational and developmental needs of the child'.

The goals of sponsorship are both preventative and rehabilitative. I am lucky enough to be on the drafting committee for the upcoming national guidelines on sponsorship. India is quickly embracing, formally, the idea of family strengthening as the foundational part of child care and protection.

4. What do you believe needs to be done to make sure that children benefit of a range of options?

We continue to work on the implementation of a foster care programme nationally, but weave into every message the need for case-by-case, best interests-based services for children. We are training State governments on sponsorship, aftercare, foster care and other provisions for care and protection by focusing on real-time case examples, and working with local level government/non-government staff on logic mapping of their case management.

5. In your opinion, what are the next steps?

The implementation of family-based care is slow to start, as each State has been mandated to 'adopt or adapt' various central guidelines. Only a small percentage of the States have done so and less have promoted the system⁴. However, states like Jharkhand, Chhattisgarh, Goa and others are beginning to increase their capacity and strategic approach to the 'reform' from institutional care as a first resort to that of a last. The change will be slow and a focus on monitoring and evaluation will be key. We have great hope for the country but now, after over eight years on-the-ground, we balance the hope with a caution that scaling care reform too quickly can cause gaps in a system, in which children get harmed, lost and/or forgotten. However, we are excited that large non-profit organisations, governments and individuals are rallying around the idea of family-based care and know the next update article on our work will have advances beyond what we can imagine.

The ISS/IRC commends the team at Children's Emergency Relief International for their hard and grassroots work on raising awareness on foster care and on contributing to achieving changes in legislation, policy and practice.

References:

¹ See Ian's blog: <https://www.wearelumos.org/news-and-media/2017/05/17/child-care-reform-india-one-sixth-world-population-has-regional-and-global-significance/>.

² See Monthly Review No. 180.

³ See some examples at: <https://www.telegraphindia.com/states/jharkhand/foster-care-norms-set-230968>; <https://www.indiatoday.in/pti-feed/story/people-using-fostercare-system-as-backdoor-for-adopting-younger-children-cara-ceo-1268316-2018-06-24>.

⁴ See: <https://www.deccanchronicle.com/nation/current-affairs/160518/foster-care-scene-in-india-worrying.html>.

FORTHCOMING CONFERENCES AND TRAININGS

- **Indonesia:** *Viable and Operable Ideas for Children's Equality (VOICE) Conference*, PUSKAPA and CPC Learning Network, Bali, 12-14 December 2018. For further information, see: <https://bettercarenetwork.org/events/viable-and-operable-ideas-for-children%E2%80%99s-equality-voice-conference>.
- **Jamaica:** *Child Protection Realities Within a Changing Caribbean*, ISPCAN Caribbean Conference, Montego Bay, 2-5 December 2018. For further information, see: <https://www.ispcan.org/caribbean2018/>.
- **Paraguay:** *X Congreso Latinoamericano de Niñez, Adolescencia y Familia - IV Foro Latinoamericano de Adolescentes y Jóvenes ALAMPYONAF*, Encarnación, 15-17 November 2018. For further information, see: <http://www.codajic.org/node/2940>.
- **Spain:** *Infancia y juventud en riesgo - Presente y futuro*, First Ibero-American Congress, Salamanca, 22-24 November 2018. For further information, see: <https://derecho.usal.es/i-congreso-iberoamericano-infancia-y-juventud-en-riesgo-presente-y-futuro/>.
- **United Kingdom:** *Making good adoption assessments*, two-day workshop, London, 12 December 2018. For further information, see: <https://corambaaf.org.uk/events/making-good-adoption-assessments-two-day-workshop-3>.
- **United States of America:** *One Child, Many Hands: A Multidisciplinary Conference on Child Welfare*, The Field Center for Children's Policy, Practice and Research. Launch of the call for papers for the conference that will take place in June 2019. For further information, see: <https://fieldcenteratpenn.org/one-child-many-hands/call-for-presentations/>.

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