

Child Rights Situation Analysis

Rights-Based Situational Analysis of Children without Parental Care and at risk of losing their Parental Care

Global Literature Scan

November 2006

Claire O'Kane (external consultant)

Claudia Moedlagl , Raluca Verweijen-Slamnescu , Evelyn Winkler (SOS-Kinderdorf International¹ Office)



'My vision of 2020 is no more war, but peace for all children. Children will be able to live with their own parents and our existing SOS Children's Villages will be more than enough. Our existing facilities create a brotherhood to help children live in their families.'
(Helmut Kutin, SOS-Kinderdorf International Directors Meeting, 15.03.02)

Abstract: This report provides an overview of key rights based analysis from a global scan identifying global and regional trends concerning children without parental care and/or at risk of family breakdown (with attention to differing socio-political, cultural contexts). Key analyses of rights violations for this target group, the root causes as well as targeting strategies are described. Identification of key duty bearers (at a range of levels) including their responsibilities are also outlined, with a particular focus on obstacles preventing the fulfilment of children's rights by State governments. Key strategies of UN and INGOs agencies are described, as well as efforts to develop international guidelines for children without parental care. Furthermore, a range of prevention and out of home care options is described.

¹ SOS-Kinderdorf International is the umbrella organisation for more than 130 affiliated national SOS Children's Village associations worldwide

INDEX

1	Introduction	4
2	Children without parental care: definition, targeting and estimation of the target group.....	6
2.1	Definition	6
2.2	Targeting (World Bank, 2005a)	8
2.3	Estimates	10
3	Key global and regional trends	11
3.1	Poverty	11
3.2	Disability.....	12
3.3	Ethnicity	12
3.4	HIV/AIDS	12
3.5	Young or Unmarried Mothers	13
3.6	Child Trafficking.....	13
3.7	Street Children	14
3.8	Refugees, Displaced Children and Asylum Seekers	14
3.9	Violence	14
3.10	Deinstitutionalization and promotion of family based care models	15
3.11	Child Participation.....	15
3.12	Rights-based approach in programming.....	16
4	Child Rights Violations concerning Children without Parental Care	19
5	Analysis of Duty Bearers.....	21
5.1	Analysis of Main Duty Bearers	21
5.2	Relation between the State and NGOs	23
5.3	Key Obstacles Preventing States from fulfilling their responsibilities	25
6	Main Programmes/Strategies of key players at global level	25
6.1	UN agencies.....	25
6.1.1	Framework for Protection, Care and Support of Orphans and Vulnerable Children	25
6.1.2	UN CRC Committee.....	26
6.1.3	UNICEF	27
6.2	International Agencies and Network	28
6.2.1	The Stockholm Declaration	28
6.2.2	European Union - European Commission Communication: “Towards an EU strategy on the Rights of the Child”	28
6.2.3	SOS Children’s Villages	29
6.2.4	International Social Services (ISS).....	29
6.2.5	Save the Children	30
6.2.6	EveryChild	30

6.2.7	International Foster Care Organisation (IFCO)	31
6.2.8	Global Better Care Network.....	31
6.3	International Guidelines for Children without Parental Care.....	32
7	Range of Prevention and Out of Home Care Options	33
7.1	Special measures to strengthen family and prevent child abandonment.....	34
7.2	Alternative care models.....	35
7.3	De-institutionalisation process	35
7.4	Options in conflict and post-conflict/ natural disaster contexts	36
8	Concluding comments – key considerations	38
	References	39
	Appendix.....	44
i.	Set of Case Studies	44
ii.	SOS Children’s Villages in external literature.....	49
iii.	UN CRC (summary).....	50

Accompanying set of documents – available upon request

1. **Our target group – towards a clearer definition of vulnerability** (Moedlagl, C. 2006)
2. **Intervention strategies of key agencies working with children without parental care** (O’Kane, C. 2006)
3. **Different options in implementing prevention work and out-of-home care** (Verweijen-Slamescu, R. 2006)

For any further information, please contact: evelyn.winkler@sos-kd.org

Acknowledgements: We extend our thanks to Stewart Wilms, Claudia Schachinger and Barbara Lill-Rastern within SOS-Kinderdorf International in supporting the development of this Child Rights Situational Analysis. We would also like to thank organisations which responded to our request for information concerning their strategies and activities, including: EveryChild, IFCO, ISS, Save the Children UK, First Nations Child and Family Caring Services, Quaker United Nations Organisation, Plan International, UNICEF Innocenti and the World Bank.

1 Introduction

The purpose of this analysis is to provide a global overview about the general situation of children without parental care as well as children at risk of losing parental care. Information regarding key trends, overall analysis of rights violations for this target group, the root causes, as well as targeting strategies are summarised. Identification of key duty bearers (at a range of levels) and key strategies to meet the needs and rights of children in this target group are also outlined. While attention is drawn to the importance of understanding children within the specific socio-cultural, economic, political context in which they live, it should be noted that a global scan cannot address specific regional or national realities in detail; therefore this analysis should be enriched by further analysis at regional, national and local levels.

For SOS Children's Villages, this analysis provides a key ingredient to inform their next global strategic planning process 2009-2012. Furthermore, this analysis is used as a foundation for further in-depth analysis processes taking place for the development of core policies regarding HIV/AIDS, education and children with disabilities.

In terms of methodology, an external consultant, experienced in child rights analysis, was leading this research process content wise, supported by three colleagues from the SOS-Kinderdorf International Office. A global scan of key literature was undertaken to inform the development of an initial draft of this report. In a second phase, international NGOs and UN agencies working in a similar context as SOS-Kinderdorf International were contacted for key information to further elaborate on specific issues and strategies. It should be noted that desk research exclusively is a valuable analysis method for a global analysis; however it cannot replace the value of more direct consultation and participatory processes with relevant stakeholders, including children and their family members, as well as national and local level policy and practice analysis – both of which are key for conducting a thorough national child rights analysis.

The UN Convention on the Rights of the Child (UNCRC) is the mostly widely ratified international treaty in history. Working from a child rights perspective means addressing the root causes of rights violations. It means recognising children as rights holders and social actors, and creating child-friendly environments. Governments should be recognised as primary duty-bearers accountable for fulfilling, protecting and respecting children's rights. It also means recognising parents and family as the primary caregivers and protecting and supporting them in this role. It implies using participatory and empowering approaches, working in partnerships and alliances for promoting the rights of the child.

Key Principles of a Child Rights Approach:		
Universality: Everyone has the same rights whatever the circumstances.	Indivisibility: Human rights are indivisible and inter-related. We need a holistic approach.	Accountability: States and other 'duty bearers' are responsible and have duties relating to rights.
Non-discrimination: All children have the same rights regardless of gender, disability, ethnicity, income etc.	Best interests: All decisions concerning a child should be made in their best interests.	Participation: Children have the right to participate in all decisions affecting them, and actively participate in claiming their rights.
	Survival & development: All girls and boys have the right to life.	

The UNCRC provides a key framework to guide programme and policy interventions with and for children without parental care. The preamble of the UNCRC emphasises the role of 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. Articles within the convention seek to prevent separation of children (article 9), to support family re-unification (article 10), to provide alternative care for children when required (article 20), with regular reviews of care plans to ensure attention to their individual needs and development (article 25), and children's own views (article 12). Taking account of the key principles of the CRC, care responses must always be made in the child's best interests (article 3), tailored to the individual needs and characteristics of each child. Action to fulfil the CRC also enables a focus on some of main causes for children's separation from the families, namely poverty (article 27), maltreatment (article 19), discrimination (article 2), armed conflict (article 38) and disability (article 23).

A child rights approach can strengthen the implementation of policies and programmes towards the achievement of the UN Millennium Development Goals (MDGs) , and a 'World Fit for Children' (the outcome document of the United Nations Special Session on Children).

Millenium Development Goals (MDGs): Most of the 8 UN MDGs directly relate to children's well-being and include: 1. Eradication of extreme poverty and hunger; 2. Achieve universal primary education; 3. Promote gender equality and empower women; 4. Reduce infant mortality; 5. Improve maternal health; 6. Combat HIV/AIDS, malaria and other diseases; 7. Ensure environmental sustainability; 8. Develop a global partnership for development.

2 Children without parental care: definition, targeting and estimation of the target group

2.1 Definition

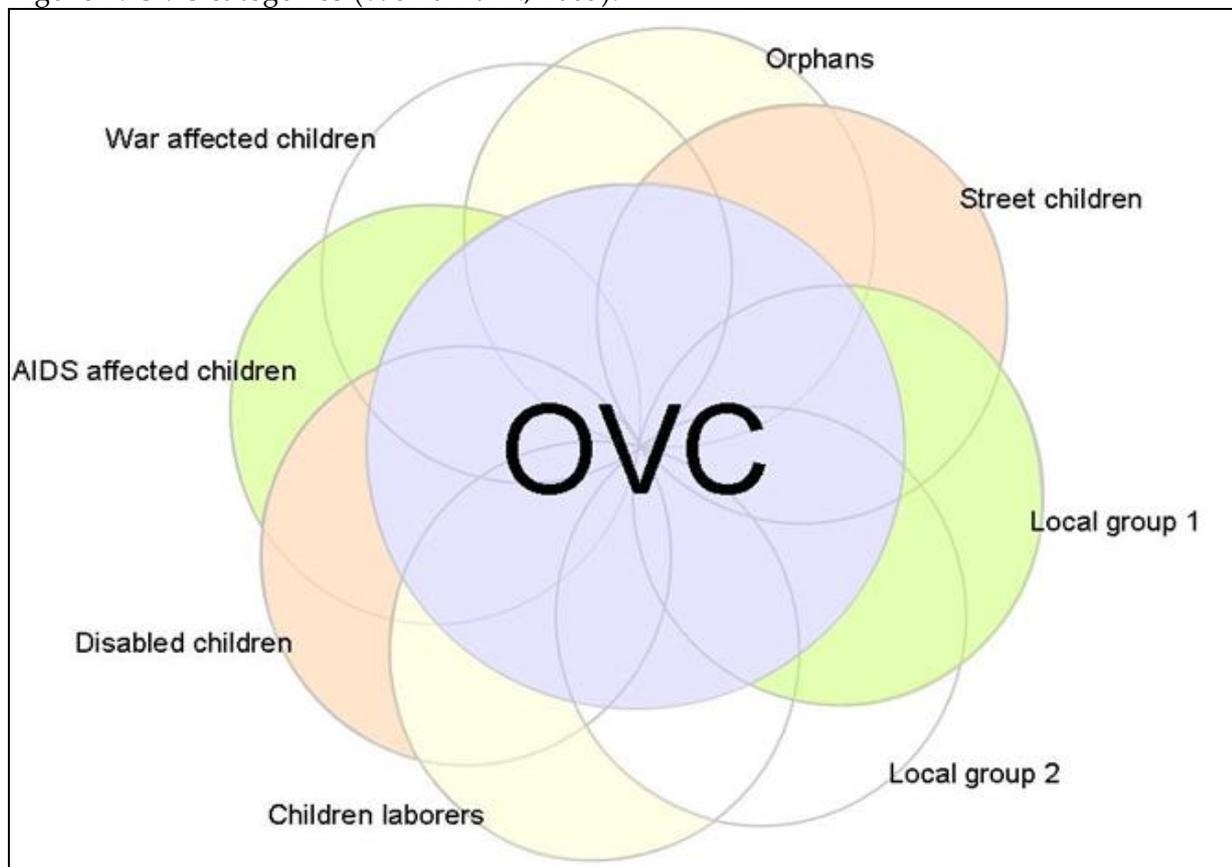
Which groups of children?

Children may be without parental care for a variety of reasons (ISS & UNICEF, 2004). However, groups of children living without parental care include:

- Children who have lost one or both parents as a result of HIV/AIDS, conflict, illness or other cause
- Children living in child headed households
- Children who have been separated from parents, usually in the context of armed conflict or natural disaster,
- Children living in residential institutions (including those children who have been abandoned by their parents, for economic or other reasons),
- Children who have been placed in an alternative care setting as a result of an administrative decision (by a welfare or protection body) or a court ruling that removal from parental care is in the child's best interests,
- Unaccompanied children who arrive in another country seeking asylum or immigration, or as a victim of trafficking,
- Children who are left without care for the majority of the day/night for different reasons (including: parents illness, disability or alcoholism; parents away working long hours; parents imprisonment).
- Children who live and work away from their home (e.g. child domestic workers)
- Children associated with armed forces
- Children who leave their family home, including runaways and children living on the streets.

Evidence shows that one child can be found in more than one of the categories mentioned above (e.g street children can also be disabled and/or orphaned, see figure 1 below) (World Bank, 2005a).

Figure 1. OVC categories (World Bank, 2005).



Vulnerability is a complex concept to define, in local/community definitions, in policy and support provision definitions, and in working definitions (Plan Netherlands, 2006). The establishment of categories of vulnerable children has the advantage of enabling service providers the identification of vulnerable children. However it poses several disadvantages: firstly there are multiple causes and effects of vulnerability and it is essential to recognise the underlying causes of risk and vulnerability in order to establish prevention programmes, as well as social protection measures. Secondly, stigmatisation and marginalisation of certain groups of vulnerable children needs to be avoided. Thirdly, as some categories of vulnerable children are crosscutting many interventions apply to all or most vulnerable children (Ministry of Local Administration and Social Affairs, 2002).

There are many different terms which are used to categorize children who, for shorter or longer periods in their lives, are exposed to intense, multiple risks to their physical and mental health. Such labels include:

- "Children in especially difficult circumstances" (CEDC)
- "Children in need of special protection" (CNSP)
- "Children in distress", "Children in crisis"
- "Children in exceptionally difficult conditions"

Sometimes children are categorized according to specific "target groups" of an organisation like street children, child prostitutes, orphaned and vulnerable children (OVC) (Plan Netherlands, 2006). Plan Netherlands (2006) consider children suffering from particular disadvantages in addition to poverty to be **children in special circumstances**, which are – according to UNICEF – some 15% of children in developing countries. This is the case when their basic needs for food, shelter, education, medical care, protection or security are not met.

Factors increasing vulnerability to family breakdown and separation of children from their families vary in different socio-economic, political, cultural contexts. However, they include: HIV, poverty, discrimination, armed conflict, natural disasters, forced displacement or migration, social problems within the family (e.g. alcoholism, drug use) and abuse and exploitation within the home (Tolfree, 2005; Moreno and Van Dongen, 2005; UNICEF 2005b; Carter, 2005; SOS-Kinderdorf International, 2005; UNHCR, 2005). Furthermore, changing patterns of family structure, formation and cohesion can also lead to disintegration (e.g. teenage or unmarried mothers may be marginalised and isolated in some contexts) (SOS-Kinderdorf International, 2005; Carter, 2005). In some regions discrimination relating to disability, ethnicity, gender and other factors can increase the likelihood of children falling out of family care (UNICEF Innocenti Insight, 2005; Carter, 2005.)

Levels of Vulnerability: There are three levels on which the child can be vulnerable: the individual, family and community contexts (Skinner et al., 2004). The table 1. below shows the different levels and some specific indicators.

Table 1. Levels of Vulnerability (Skinner et al., 2004).

Levels	Indicators
Individual/child level	<ul style="list-style-type: none"> ▪ any physical or mental disability or any other long-term difficulty that would make it difficult for the child to function independently ▪ illness (HIV or other mayor illness) ▪ emotional or psychological problems ▪ abuse at emotional, physical or sexual level ▪ not cheerful, dull, does not perform well in class, miserable, dirty with torn clothes, sleepy, ▪ use of drugs, e.g. glue, alcohol, cigarettes, dagga, cocaine ▪ neglect of schoolwork, does not attend school regularly, does not perform well at school, ▪ does not receive sufficient healthy food and constantly shows signs of hunger ▪ constantly shows signs of not sleeping well,

	<ul style="list-style-type: none"> ▪ poor hygiene or cannot engage in personal care ▪ does not have clothing or has dirty clothing all the time ▪ does not receive care, particularly love, guidance and support
Family level	<ul style="list-style-type: none"> ▪ caregivers are not able or willing to care for the children under their care ▪ alcoholic, poor and emotionally disturbed parents ▪ disabled handicapped (physically and mentally) or chronically very sick parents, e.g. confined to bed ▪ household is overcrowded or the ratio of children to caregivers is too high ▪ divorced parents ▪ abusive family or parents or caregivers not equipped to provide care giving role ▪ lack of financial resources to adequately care for the child ▪ lack of parental guidance and direction
Community level	<ul style="list-style-type: none"> ▪ risk of being exposed to dangerous situations ▪ prevented from having a normal life as a child, e.g. schooling, play, etc. ▪ unsafe environments such as informal settlements, lack of toilets, crime ▪ high levels of poverty ▪ exposure to crime, gangs and drug use

2.2 Targeting (World Bank, 2005a)

Targeting is a way to ensure that the most deserving needy are given priority, regardless of geographic regions, ethnic groups and clans. The main objective of targeting is to deliver more resources to the poorest groups of the respective population.

Each particular targeting strategy will vary depending upon the following factors:

- The type of project that is planned to be implemented;
- Whether the objective is to prevent children from becoming orphaned or vulnerable (OVC) or to provide assistance to those who are already orphaned and vulnerable children (OVC)
- Whether the OVC are geographically concentrated;
- Whether the OVC are visible in the community (e.g. street children are, child domestic servants are not);
- Whether the OVC are affiliated with an institution or organization.

As there will always be more OVC than a project can afford to support the two main questions are: how many OVC can the project assist and who should be given priority? Other of eligibility criteria can be the intervention priorities, that is to say, if the project wants to reach those who still can be prevented from falling into the critical vulnerability, those who are already worst off, those who are easier to reach, or perhaps those for whom the project can produce the most significant life improvement per dollar.

The World Bank (2005a) recommends the following selection criteria:

- Be easy to understand by the communities
- Be easy to use by the project implementers
- Be low-cost to monitor and verify
- Strengthen OVC ties to their community rather than detach and isolate them
- Allow transparent selection processes
- Avoid stigmatizing the beneficiaries

Chapter 2.2.1 focuses on targeting vulnerable children within a broader process of consulting with affected community. Other methods of targeting like geographical targeting are explained in the accompanying set of document (Moedlagl, C. & O'Kane, C. 2006).

2.2.1 Identifying vulnerable children at the community level (World Bank, 2005a)

There is general consensus that interventions to assist orphans and other groups of vulnerable children should be based in and owned by the affected communities themselves. Members of the community are in the best position to know which orphan households are most severely affected, and what sort of help is appropriate in the local culture. The role of outside organisations is to assist communities (and small grass-

roots organisations) by capacity-building which leads to a long term and lasting building of confidence and strengthens relationships between community members (Child Protection Society Zimbabwe, 1999).

Choosing a community-based selection procedure to identify OVC has two advantages: it strengthens the ability to identify the children who are indeed most in need and the community ownership of the intervention. This method can be used to target services to existing OVC and also to effectively identifying children (and households) at risk, making it possible to provide preventive services. It normally works better in rural than in urban areas, because people tend to know each other better, there is a stable population and a certain level of group solidarity.

Community-based identification of OVC can best be done by using well defined eligibility criteria agreed upon before approaching the community (including men, women, girls and boys), or using criteria produced through a community consultation process. A mixture of both is recommended. One participatory method may be to consult community members at a public meeting, which helps limit the selection of non-OVC, since children's status is normally well-known within the community. The open and transparent process can help prevent favouritism toward members of a particular clan or ethnic group.

A disadvantage of a public meeting may be the stigmatization of the identified children. Certain OVC from an already stigmatized category like street children or "cursed" children may also not be identified since community members may have little sympathy for them. Another obstacle could be that hierarchy and rank could prevent some community members from speaking up in company of those of higher rank (e.g. women in Muslim communities may be reluctant to speak in the company of men; children may be scared to speak up in front of adults). The following alternatives may help to reduce the danger of stigmatization and allow for lower status groups to express their opinion:

- Holding the selection meeting only with women as they are arguably more knowledgeable about the situation of children and afterwards have the resulting list of OVC validated by the council of elders or the equivalent authority to obtain buy-in; it would also be recommendable to hold selection meetings with children and young people as well in order to guarantee participation of all population groups.
- Have the community as a whole agree on criteria to select children, with the actual selection done by a committee which is also selected by the community;
- Ask an existing community committee with elected membership to identify the children to be served by a program. This has the danger that the choices appear less transparent and with more room for selecting children from relatives and other favoured groups.
- Carry out focus groups with men, women, girls and boys separately in order to guarantee their full participation.

It can also be helpful to involve local resource people like teachers, health personnel or local religious and traditional leaders which are often close to families in their communities and therefore able to identify vulnerable children. Issues of equity could arise as religious leaders could neglect children from other religions and traditional leaders may neglect children from other clans.

If a community-based method is not applicable, for example in an urban setting where the situation is highly divisive, people don't know each other or there are tensions between hostile groups - the best alternative is to carry out a census of households with children and collect information on the family status of the children in the households, that is, on their relationship to the household head and the whereabouts of their parents.

Another method which can be used in a situation of high numbers of OVC is to identify the most vulnerable children by surveying for orphans (and/or other groups of vulnerable children) and scoring them on a scale of one to three in each of the three dimensions: 1) their medical conditions, 2) their socio-economic condition, and 3) their psychological condition².

² For example, children receiving a score of at least one on their medical conditions, indicating that they will need basic medical treatment; they score 2 if they need hospitalisation and three if they appear to have HIV/AIDS and need an anti-retroviral treatment).

2.3 Estimates

Statistics relating to the number of children without parental care are scarce (UNICEF, 2005). However, all available evidence presents an alarming picture regarding the increasing scale of children's care needs across the globe, particularly as a result of the growing HIV/AIDS pandemic (UNAIDS/UNICEF/USAID, 2004). **Millions of children around the world live in out-of-home care settings or are otherwise separated from their parents.**

Estimates of Orphans: 'Children on the Brink 2004' (UNAIDS/UNICEF/USAID):

- By the end of 2003, it was estimated that there were 143 million orphans aged 0 through 17 years old in 93 countries of Sub-Saharan Africa, Asia, and Latin America and the Caribbean.
- Sub-Saharan Africa has the greatest proportion of children who are orphans (43.4 million orphans under age of 18 years – of whom an estimated 12.3 million children have been orphaned by AIDS).
- In 11 of the 43 countries in the Sub-Saharan Africa region, more than 15 percent of children are orphans. The highest percentages of children orphaned are in countries with high HIV/AIDS prevalence levels or those that have recently been involved in armed conflict.
- While the proportion of orphans due to AIDS in Asia is much less than in Sub-Saharan Africa, the absolute number of orphans in Asia is much larger (87.6 million orphans in 2003 due to all causes).
- In Latin America and the Caribbean both with smaller populations and lower prevalence of HIV/AIDS, there were 12.4 million orphans in 2003.
- **Globally the number of children orphaned by AIDS will continue to rise for at least the next decade. By 2010, the global number is expected to exceed 25 million.**

Estimates concerning Children living in Care or at Risk Settings:

International Social Service and UNICEF (2004), UNICEF (2005), UNICEF Innocenti Insight (2005), EC Communication (2006):

- In the USA there are 600,000 children in the foster-care system alone
- Some 1.5 million children are reported to be in out-of-home care in Central and Eastern Europe and the CIS, including 900,000 in residential facilities. The majority of these children are NOT orphans and children with disabilities are over-represented in this group.
- At least 317,000 children with disabilities in CEE/CIS region live in residential institutions.
- Every year thousands of unaccompanied minors arrive as potential immigrants or asylum seekers in the industrialised countries: in 2001, they numbered over 17,000
- Child headed households, especially in conflict and HIV/AIDS affected communities. There are 270,000 such households in Rwanda alone.
- Millions of children currently living outside all forms of care, on the streets, in exploitative labour, or associated with armed forces.

Children in out of home care situations are at increased risk of facing different forms of discrimination, abuse and exploitation, including trafficking and sexual exploitation.

- 1.2 million children are trafficked every year
- 5.7 million of children work in difficult circumstances, including bonded labour
- 2 million children work in the commercial sex industry.

For further reading, see an accompanying paper "Our Target Group – Towards a Clearer Definition of Vulnerability" which is produced as (part one) of an accompanying set of documents.

Key Consideration for SOS Children's Villages: The target group

SOS Children's Villages currently focus on children without parental care within existing SOS facilities and children at risk of family breakdown through family strengthening programmes, however there is no focus on children who are living without any form of adult care such as street children or child soldiers. Rights based programming involves working with the most marginalised groups of children. Thus, there is a need for SOS Children's Villages to explore ways in which communities define the index of vulnerabilities and subsequently prioritise the response to children they are most concerned with (World Bank/UNICEF, 2002). Children on the Brink (UNAIDS/UNICEF/USAID, 2004) has avoided using acronyms such as "OVC" (for orphans and vulnerable children), as experience has shown that such jargon eventually becomes used at the community level to identify particular children. When asked what they prefer to be called, children have said, "Just call us children."

3 Key global and regional trends³

Children must be considered in their broader context, as a range of socio-political, cultural and economic factors impact upon their and their families' lives. Furthermore, social policy is influenced by culture, history, politics and a range of other factors (Moreno and van Dongen, 2005). Consideration of the wider context also helps us to identify key global or regional trends in relation to children without parental care (and/or at risk of family breakdown).

3.1 Poverty

Globally, too many children are unnecessarily deprived of parental care due to poverty and its impact upon the family⁴.

Poverty is not limited to developing countries. One in every six of the rich nation's children is living in poverty. In total, approximately 47 million children in the nations of the OECD live below their national poverty lines (UNICEF Innocenti Report Card, 2000). In different regions of the world, poverty is repeatedly described as the first reason for families resorting to institutional care or alternative care placements for their children. In Indonesia, parents choose to send their children to government or religious group-sponsored orphanages or boarding schools, to ensure that they have access to nutrition, health care, and educational services (UNICEF, 2005). In the UK children from poor backgrounds are 700 times more likely to be placed in care than children from other backgrounds (Bebbington and Miles, 1989). Economic poverty can also have broader social impacts. In Albania, for example, it has fuelled internal and external migration, which in turn is believed to have contributed to a weakening of traditional community support networks, a rise in divorce rates, family disintegration, and single-parent families (UNICEF, 2005). Children in such families are at greater risk of being institutionalised, entering life on the streets and/or becoming victims of sexual exploitation, including child trafficking. With families increasingly under economic stress, girls and young women are finding themselves sexually active (often in exchange for money, goods, protection etc) in ever increasing numbers and at young ages (SOS-Kinderdorf International, 2005). However, children born to single mothers, particularly in parts of Asia, Africa and the Middle East face significant stigma, which may in turn force their mothers to abandon them (SOS-Kinderdorf International, 2005).

In Central and Eastern Europe and the Former Soviet Union large numbers of children continue to be institutionalised, largely for social reasons – but poverty and disability play a significant part (Carter, 2005, UNICEF Innocenti Insight 2005). The social consequences of economic transition has led to shrinking state and increased rates of unemployment, migration of workers, family breakdown, single and early parenthood (Carter, 2005; UNICEF Innocenti Insight, 2005). Reasons why children are in institutional care in this region include: poverty (particularly low income and inadequate housing); negative cultural and social attitudes and practices (towards single mothers, young parents, people with disabilities and Roma ethnic minority group); stigmatisation and discrimination of children with physical or mental disabilities; prevailing (and often discriminatory) attitudes that 'professionals know best', judging children as 'defective' when they have a disability and/or parents as 'inadequate' (e.g. if they have a child with a disability, or if they abuse alcohol or drugs); and abandonment or neglect by parents – including among large families who feel unable to care for so many children (Carter, 2005).

There are different reasons for younger children being placed in alternative care settings in Western Europe compared with other parts of Europe (e.g. Croatia, Czech Republic, Slovakia, Estonia, Hungary, Latvia, Romania etc). In Western Europe 69% of younger children are placed in care due to abuse and neglect, 23% for social reasons (family ill health, parents in prison), 4% abandonment and 4% disability. In comparison in other parts of Europe 32% are abandoned, 25% social orphans (family ill health and capacity), 23% due to disability, 14% abuse and neglect and 6% orphans (Browne et al, 2005). Thus, as suggested by Carter (2005) the reasons for institutionalisation are associated with poverty and social changes in countries

³ Further gender and discrimination analysis (including ethnicity, disability, sexual orientation etc), as well as analysis relating to specific groups of children such as: teenage mothers, child soldiers and children in conflict with the law are likely to be enriched through more detailed analysis within the regions.

⁴ Anglade, 2005; Cantwell, 2005; ATD Fourth World, 2004; UNICEF, 2005; SOS-Kinderdorf International, 2005

experiencing social transition. Browne et al (2004, 2005) have found that countries in Europe with lower GDP and health expectations have larger proportions of younger children in institutions. **Higher rates of inter-country adoption** (e.g. 77% of all adoptions in Latvia and 55% in Lithuania) are usually found in **countries where large numbers of under 5 year olds are placed in institutions** (Browne et al, 2005).

3.2 Disability

Over 200 million children live with serious disabilities (EC Communication, 2006). In some cultural contexts, discriminatory attitudes towards children with disabilities contribute to increased trends of institutionalisation, as children are segregated from families and communities. Furthermore, links between disability and poverty are well established in both developing and developed countries (UNICEF Innocenti Insight, 2005). **During the economic transition in the CEE/CIS region there have been increased rates of institutionalisation of children with disabilities under 3 years old** UNICEF Innocenti Insight, 2005). Use of the medical model and the soviet discipline of defectology have compounded this trend in this region (Carter, 2005; UNICEF Innocenti Insight, 2005). In Georgia where almost one third of children with disabilities are institutionalised, parents cited these reasons: social attitudes and shame; lack of skills to provide appropriate nursing care; financial difficulties; and a belief that there is little chance for the child to integrate into society (UNICEF Innocenti Insight, 2005). However, a shift towards use of a social model of disability is beginning to take place (UNICEF Innocenti Insight, 2005). Furthermore, in addition to prevention work, **foster care systems are being introduced to this region** as an alternative to institutional care (Carter, 2005; Cantwell, 2005).

3.3 Ethnicity

In addition to discrimination due to disability, discrimination arising from ethnicity has also resulted in increased institutionalisation of children, separating them from their parents.

For example, in Eastern Europe Roma children are more likely to be labelled with a disability (UNICEF Innocenti Insight 2005) and they are over-represented in the care system (Carter, 2005; Tolfree, 2005; UNICEF Innocenti Insight, 2005). Roma children face a cycle of disability, discrimination and disadvantage. In the UK Afro-Caribbean boys are over-represented in the care system. Furthermore, in Canada aboriginal children are over-represented in the Canadian child welfare system. 30-40% of children in the state run welfare system are aboriginal reflecting a failure of the state to re-dress disproportionate structural risks to aboriginal children and their families (Blackstock and Alderman, 2005). The majority of children who end up in the criminal justice system are from particularly deprived communities and families, often from discriminated minorities (Martin and Parry-Williams, 2005).

3.4 HIV/AIDS

In Sub-Sahara Africa, parts of Asia, Latin America and Caribbean there are increasing numbers of children being orphaned as a result of HIV/AIDS (UNAIDS/UNICEF/USAID, 2004).

There are growing **HIV/AIDS epidemics in Eastern Europe, Central Asia and East Asia**. Pakistan and Indonesia may be on the verge of a serious epidemic. In Latin America low national prevalence rates is disguising epidemics in urban centres and among certain populations. In countries in the Middle East and Northern Africa are being overlooked, in part due to cultural inhibitions. The epidemic continues to intensify in Southern Africa. However, infection rates are dropping in some parts of Eastern Africa (UNAIDS/WHO, 2005).

Within Sub-Sahara Africa the majority of orphans are being cared for by their relatives, but with insufficient support (UNAIDS/UNICEF/USAID, 2004; Save the Children 2005; World Vision, 2005). Fostering is a deep rooted practice in Africa in the form of kinship systems and family networks that provide safety nets for children, not just orphans (World Bank/UNICEF, 2002). However, the HIV/AIDS epidemic is tearing away at the social, cultural and economic fabric of families, the first line of protection and provision for children that safeguards against exclusion and exposure to harm (UNICEF, 2005b). Disproportional burden falls on elderly, female headed, child headed and poor households, yet with insufficient support from governments and other agencies, a negative cycle of child rights violations faced by children may increase (World Bank/UNICEF, 2002; Tolfree, 2005).

3.5 Young or Unmarried Mothers

1 in 10 births worldwide is to a mother who is still herself a child. Worldwide more than 13 million adolescent girls give birth each year. More than 9 out of 10 of these births take place in developing countries. Girls in their teens are twice as likely to die from pregnancy and childbirth related causes, compared with older women (Save the Children, 2004).

Girls in Sub-Saharan African countries have the highest rates of early marriage and early motherhood. Outside of Africa, other high risk countries include: Afghanistan, Bangladesh and Nepal in South and Central Asia; Yemen in the Middle East; and Guatemala, Haiti and Nicaragua in Latin America. Young mothers often struggle socially and economically, and their children are likely to repeat the cycle of poverty. Research has shown that the majority of child mothers do work, though often in the unpaid or informal sector (e.g. selling produce, tailoring) where they do not have the benefits of regular employment (Save the Children, 2004).

In the industrialised world the US has the highest rates for teenage pregnancy and child birth. Although birth rates for teenage girls in the US have declined in recent years, they are still 2.5 times higher than the UK, 10 times higher than the Netherlands or Japan. States within USA which have large rural populations, above average poverty rates and lower than average education levels have the worst records for children having children (Save the Children, 2004).

In many parts of the world particularly in contexts where strong religious beliefs are prevalent (Islamic, Christian or Hindu) the situation affecting unmarried mothers and care of their children is of particular cause for concern. A child and the mother are stigmatised and discriminated against if the child is born out of wedlock. For example, concern has been expressed by a Special Rapporteur on the situation of babies who are born to unmarried mothers in Morocco. As such children were not readily accepted by the mothers' family and a single mother could be imprisoned for 6 to 12 months, unless she could prove that she was raped. Thus, some mothers resorted to abandoning their babies shortly after birth (Economic and Social Council Commission, 2000). A study conducted over an eight year period in a centre for destitute women in Bangladesh also indicated that unmarried women were much more likely to abandon their child than married women (Wilson, 1999). The most common reason for abandonment, in 74 % of abandonment cases, was that the child was 'born out of wedlock': the unmarried status of the mother, the inability of the mother to go home, insistence by the family that the child should be abandoned and fear of stigmatization by society lead to abandonment. Foster homes for 'out of wedlock children' were also more difficult to find than for 'legal children' as family background was of great importance. Similarly, in Central and Eastern Europe single parenthood and very young parenthood are precipitating factors contributing to children being placed in institutional care (Carter, 2005). However, **in contrast there has been a steady improvement in the status of unmarried mothers in Western Europe.** In many western European countries unmarried mothers are socially accepted, and birth out of wedlock is not a reason for a child to be deprived of parental care.

3.6 Child Trafficking

The rate of child trafficking has been increasing since the late 1980s. This trend has been influenced by globalisation, increased consumerism, improved transport infrastructure, computer technology and the internet. Child trafficking is a particularly exploitative form of human trafficking since victims are robbed of care, childhood, family life, education and health at a vulnerable time in their lives, which in turn impacts upon their adulthood (Van Reisen & Stefanovic, 2004). Although reliable global statistics are impossible to compile, it is estimated that trafficking affects about 1.2 million children each year (UNICEF, 2005b). In Africa poverty is recognised as the most visible cause for trafficking in human beings. Besides poverty the particular vulnerability of women and children makes them an easy target for traffickers (UNICEF Innocenti Insight, 2005a). In almost all countries the sex trade is the predominant form of exploitation of trafficked children. Some of them are also recruited for cheap labour for the industrial and agricultural sector. In those countries affected by armed conflicts, they can be directly abducted by militias (UNICEF, 2005b).

3.7 Street Children

The exact number of street children is impossible to quantify, but it is likely to number in the tens of millions or higher, some estimates place the figure as high as 100 million. It is likely that the numbers are increasing as the global population grows and as urbanization continues apace: 6 out of 10 urban dwellers are expected to be under 18 years of age by 2005 (UNICEF, 2005b).

Street children are among the most physically visible of all children, living and working on the roads and public squares of cities all over the world. Yet, paradoxically, they are also among the most invisible and therefore, hardest children to reach with vital services, such as education and health care, and the most difficult to protect. Most street children are not orphans. Many are still in contact with their families and work on the streets to augment the household income. Many others have run away from home, often in response to psychological, physical or sexual abuse. Once on the street, children become vulnerable to all forms of exploitation and abuse. They often find themselves in conflict with the police and other authorities and have been harassed and beaten, or even murdered by them (UNICEF, 2005b; Martin and Parry-Williams, 2005).

3.8 Refugees, Displaced Children and Asylum Seekers

At the end of 2004, roughly 48 per cent of all refugees worldwide were children. During the same year, the total number of people displaced within their own countries by conflict or human rights violations amounted to roughly 25 million (UNICEF, 2005b).

Refugee and internally displaced children may become separated from their families, lose their homes and find themselves living in poor conditions that jeopardize their health and education. The loss of family protection can leave them at significant risk of military recruitment by armed groups and forces, abuse and sexual exploitation. Girls are especially at risk of abduction, trafficking and sexual violence including rape which is used as a weapon of war (UNICEF, 2005b).

Most migration is between or within States in the global South, and the vast majority of separated children remain within their countries of origin in different parts of the world. However, a relatively small number seek asylum in Europe (Ruxton, 2005). **The majority of separated children seeking asylum are male (Ruxton, 2005). The numbers of separated children seeking asylum in industrialised countries peaked in 2001 and has since declined.** However, in 2003, some 12,800 separated children applied for asylum in 28 industrialised countries (Ruxton, 2005). When separated children arrive as asylum seekers they are likely to face immense difficulties including: complex asylum and immigration processes; probing interviews and invasive medical examinations; detention in airport 'waiting zones', reception centres or even prison (Ruxton, 2005). Throughout this process they may lack the support of an adult guardian or a legal representative and may not have access to: appropriate food, housing, education, health, social care and cultural links (Smith, 2003).

3.9 Violence

There is increased global attention on levels of violence faced by children in different settings, including within family homes, institutions and alternative care settings, particularly with processes leading up to and following the launch of reports from the global UN Study on Violence Against Children. Emotional, physical and sexual abuse faced by children within the home is one of the main reasons why children may be removed from family care (by State authorities) or choose to run away from their family (International Save the Children Alliance, 2005; Martin and Parry-Williams, 2005; SOS-Kinderdorf International, 2005). Girls face increased risk of sexual abuse, whilst boys face increased physical violence (International Save the Children Alliance, 2005). 88% of the children in SOS Children's villages in Croatia have suffered physical or sexual abuse within their biological family, 75% in Belarus and 55% of children in Lithuania (SOS-Kinderdorf International, 2005).

The prevalence of abuse within residential care settings in Western Europe has been highlighted in the past decade, with an increased numbers of in-depth public investigations. Ongoing investigations in Ireland testify to abuse of children over decades – a Commission to inquire into child abuse received 3000 complaints, of which 60% were from adults over 50 years who were abused as children in institutions (Ruxton, 2005). A current investigation in Portugal ‘Casa Pia’ concerns allegations of organised sexual abuse of boys in residential care over three decades. Furthermore, there have been a number of public inquiries in relation to abuse in the UK care system (Ruxton, 2005). Some groups of children, including children with disabilities and younger children face particular risks of physical and sexual abuse.

3.10 Deinstitutionalization and promotion of family based care models

There is a global concern to redefine the residential care system and to support family based care models, including prevention work with biological families.

There has been a **decline in use of institutional care in Western Europe** since the 1970s, with increased prevention work with families, gate-keeping and de-institutional care efforts. Furthermore, in the past 15 years **de-institutional care processes have been supported by the World Bank, UN agencies, EU and INGOs in Central and Eastern Europe, the former Soviet Union, as well as in other parts of the world** (see UNICEF Innocenti Insight, 2005; Bilson and Gotesan, 2002).

However, in practice **institutional care is still inappropriately promoted and supported by some western agencies, both private and faith based in non-western parts of the world, particularly in emergency contexts** and in countries affected by the HIV/AIDS epidemic (Cantwell, 2005; Tolfree, 2005). Furthermore, where institutions exist (or are developed) they are often inappropriately called orphanages, as very few children in institutions are genuine orphans (Tobis, 1992, Carter, 2005; Cantwell, 2005; Williamson, 2004a).

There are increased efforts by a range of agencies to build upon existing family based care options such as kinship care and to develop or strengthen alternative family based care options such as foster care (see UNICEF, 2005; ISS & UNICEF, 2004; Carter, 2005; Tolfree, 2005).

Kinship care is the most prevalent form of care for children affected by HIV/AIDS in Africa, Asia and Latin America, where 90% of children are in kinship care (Cantwell, 2005). **In the USA kinship care is also prevalent.** 2.1 million children are being raised solely by their grandparents (over 90% on an informal basis), compared to 600,000 children in foster care (see Cantwell, 2005). A type of kinship care (*guardianship*) is the most common family-type care in Central and Eastern Europe and Caucasus. There has been a significant **rise in the rate of guardianship in many of the states of Central and Eastern Europe and the Caucasus** (for example, Russia, Latvia, Ukraine and Armenia) (Gudbransson, 2004). **In the UK and Australia where the foster care system is becoming over-burdened there are increased policy and practice efforts to increase use of kinship care** (Cantwell, 2005).

Religious values may impact upon care opportunities available for children. For example in Islamic societies the practice of ‘Kafala’ (Islamic adoption) may take place, where-by a family look after a child until the age of 18 years without any rights to the adopting families name or inheritance. Furthermore, faith based organisations (FBOs) are playing an increasing role in providing or supporting care of children orphaned or made vulnerable by HIV/AIDS (Tolfree, 2005, Firelight Foundation et al, 2005). **While some faith based organisations (Islamic and Christian) continue to establish institutions for children, increasing numbers of FBOs are running and supporting more effective community based prevention, care and protection initiatives** (Firelight Foundation et al, 2005; Williamson 2004a).

3.11 Child Participation

In the past decade there has been a significant shift towards recognising children and young people as social actors, and supporting their participation in practice and policy matters that affect them. However, in many settings increased efforts are required to turn rhetoric into genuine practice. Empowering girls and boys as right holders, supporting them to assert their rights and participate in all decisions affecting their lives is key to rights based work. In understanding and responding to the situation of children without parental care and/or at risk of family breakdown it is crucial to listen to the views of girls and boys of different ages and abilities.

Furthermore, in practice developments there has also been a **shift from focusing solely on risks and vulnerabilities to identifying and building upon the positive coping strategies and resilience of marginalised children, young people, their families and communities** (see Boyden and Mann, 2000).

Key views of children and young people:

Qualitative research was undertaken with children with disabilities in Russia, Latvia and Bulgaria (in institutional and community settings). Overall, children expressed that it was better for a child to live at home, rather than in an institution (UNICEF Innocenti Insight, 2005).

Children's recommendations in relation to children without parental care (see Save the Children/ the UN Secretariat, 2005):

Eight regional children's consultations were held to enable children's views, experiences and recommendations to feed into the UN Study on Violence. Key views of children and young people which are relevant to the situation of children without parental care and/or at risk of family breakdown are highlighted here.

- Need more preventative work with families to enable good communication between parents and children and alternative non-violent forms of punishment (e.g. parenting education)
- Reduce poverty as it increase family stress - increase the amount of aid and social assistance given to families.
- Prevent children returning to families that continue to be violent, instead help them to integrate well into other families.
- Ensure that there are professionals who children can trust who are available for help and support both inside and outside of schools.
- Need to enact national laws to protect children from all forms of violence at homes, in schools, communities and institutions
- Let children know their rights
- Invest in and support child participation initiatives.
- Involve children and young people in policy and programme developments affecting them.
- Reduce discrimination faced by children (due to gender, disability, care status etc).
- Raise awareness of the harmful impacts of violence against children.
- Create child help lines
- Combat physical, sexual, mental and abuse of children and young people in juvenile justice and other residential settings.
- Avoid placing young offenders in jail, have alternative responses in the community.
- Make sure that children in residential institutions are thought of as children and not as 'criminals'
- Continue to support children when they leave institutions, so that they have a place to live, to study or to work.
- Help children and young people who have been through the care system to talk to each other, and to have a voice in the care system (e.g. so they can report any abuse faced).
- Have specialized people who can periodically visit institutions to monitor the situation by listening to children and young people and ensuring follow up action on any concerns.
- Where-ever possible enable children to live with families rather than in institutions.
- Where residential institutions exist make them more visible and in more centralized locations.

3.12 Rights-based approach in programming

The shift to rights-based approach is one of the most fundamental trends affecting the work of a range of development and relief agencies in recent years.

Over the past ten years, rights-based approaches have gained widespread acceptance among UN organisations, NGOs and donor agencies. *"The rights based approach ... means describing situations not in terms of human needs, or areas for development, but in terms of obligation to respond to the rights of individuals. This empowers people to demand justice as a right and not as a charity."* (Mary Robinson in CRIN, 2005, p. 4) A rights based approach is basically about challenging the power relations that lie at the root of poverty, exploitation, discrimination, violence and abuse. This requires an in-depth analysis of power and politics and the processes that support people to claim their rights and motivate people in power to fulfil their obligations. (Theis, 2005)

Key components in Child Rights Based Programming⁵

Some of the key components of Child rights based programming take the general human rights principles and concepts and the UN CRC principles and concepts as a starting point:

1. **Focus on children:** a clear focus on children, their rights and their role as social actors.
2. **Holistic view of children:** considering all aspects of a child while making strategic choices and setting priorities.
3. **Accountability:** a strong emphasis on accountability for promoting, protecting and fulfilling children's rights across a range of duty-bearers from the primary duty bearer - the state, (e.g. local and central government) to the private sector, the media, child-care professionals, and other individuals with direct contact with children.
4. **Supporting duty bearers:** consideration of the ways in which duty bearers could be helped to meet their obligations through technical assistance, budget support and other forms of partnership.
5. **Advocacy:** the importance of advocacy, public education and awareness raising as programming tools in order to ensure that duty programming (and beyond), according to children's evolving capacities
6. **Non-discrimination:** a commitment to the inclusion of the most marginalized children bearers are held accountable.
7. **Participation:** the promotion of children's effective participation in and to challenging discrimination on such grounds as gender, class, ethnicity, (dis)ability, etc.
8. **The best interests of children:** consideration (with children) of the impact on children of all programme choices
9. **Survival and development:** a focus on both the immediate survival of children as well as a commitment to ensuring the development of their full potential
10. **Children as part of a community:** an understanding of children's place in their families, communities and societies and the role that their parents and other carers have in defending their rights and guiding children's development.
11. **Root causes and broad issues:** a focus on the underlying causes as well as immediate violations.
12. **Partnerships:** building partnerships and alliances for the promotion, protection and fulfilment of children's rights.
13. **Information and knowledge:** facilitating access to and understanding of children's rights for children themselves, their communities and key duty bearers, including government.

In the UN Programme for Reform that was launched in 1997, the Secretary-General called on all entities of the UN system to mainstream human rights into their various activities and programmes within the framework of their respective mandates. Since then a number of UN agencies have adopted a human rights-based approach to their development cooperation and have gained experiences in its operationalization. Each agency has tended to have its own interpretation of approach and how it should be operationalized. However, UN inter-agency collaboration at global and regional levels, and especially at the country level, requires a common understanding of this approach and its implications for development programming. (CRIN, 2005, p. 15)

Following the example of the UN Agency, governments, international donors, financial institutions have adopted a human rights approach to development with a specific focus on children's rights as set out in the UN CRC (CIDA, 2005). Many organizations have well developed policies, programs, strategies and action plans for children and young people in general or for specific subsets of vulnerable children (e.g. orphaned children, children affected by armed conflict, and child labourers).

Particularly notable are:

- Norway, with its recently issued development strategy for children and young people in the south, Three Billion Reasons;
- Sweden, with a policy that legally binds SIDA to integrate a children's rights perspective in development cooperation;
- DANIDA, with its guidelines on children and young people in Danish Development Cooperation.
- The Commonwealth Secretariat has a strong rights-based youth programme.

⁵ Developed by Save the Children (see Save the Children, 2005b)

In addition to this, children's participation in policy and programming design, implementation, monitoring and evaluation is prominent in many organizations' policies, including the Department for International Development (DfID, UK). Furthermore, a growing emphasis on children and youth as both affected and/or infected with HIV/AIDS is evident, as demonstrated in the policies of Germany, Ireland, UK, Finland, Netherlands, Norway, Sweden, the US, the Commonwealth Secretariat, the ILO and UNICEF, thereby allowing for greater differentiation of approaches to girls and boys.

A child rights-based approach opens many challenges. With the growing trend towards rights based approaches to development, some organisations may be tempted to adopt the rhetoric of a rights-based approach while maintaining need-based programmes. Strong rights rhetoric and high-profile campaigns on their own are unlikely to bring about measurable improvements in children's lives. It is important that rights-based approaches build on solid programme experience around the world. (Save the Children Denmark, 2005)

In the last years, several initiatives were undertaken in order to find out what are the most successful ways to implement a child rights based approach. (INTRAC, 2003, Save the Children, 2005). All these studies came to the conclusion that *"there was no blueprint for what child rights programming, or a rights-based approach more generally, entails or how an organisation should go about implementing it. The challenge has been to create a fundamentally new way of working"* (Save the Children, 2005).

4 Child Rights Violations concerning Children without Parental Care

All groups of children without parental care face increased risk of abuse, exploitation and violence, including sexual exploitation, risk of being trafficked and recruitment to the armed forces (Yuster, 2005; World Vision, 2005; UNICEF/World Bank 2002; UNICEF, 2005b).

When children are without parental care they often **enter a negative cycle of marginalisation, discrimination, abuse and exploitation**. For example, a boy may move to live with relatives if his parents die of HIV/AIDS or during a conflict. However, if he faces discrimination within the household (e.g. being treated differently than relatives own children and/or being forced to earn a living to contribute to family income, rather than attending school) – then the child may runaway to the streets. Once on the streets the boy faces increased risk of abuse and exploitation (economic, sexual and criminal) (see Martin and Parry-Williams, 2005). Girls in similar situations face increased risks of child marriage, sexual exploitation and being denied access to education (UNICEF, 2005).

According to Subbarao et al (2001) there are about 1 million street children in Sub-Saharan Africa, mostly found in conflict or post-conflict areas. For example, in 3 urban areas of Zambia it was found that the majority of street children were orphans (37% had lost 1 parent, 19% had lost both parents and 2% did not know where their parents were) (ILO, 1999). The same study found that the majority of children engaged in prostitution in Uganda were orphans (36% had lost 1 parent and 29% both). Orphans, especially girls face increased probability of being sexually abused and forced into prostitution as a survival strategy (World Bank/UNICEF, 2002).

In different parts of the world there is evidence that **children without parental care and/or placed in care face educational disadvantages**. In the UK, children in care perform less well in school (Social Exclusion Unit, 2003). In HIV/AIDS affected countries illness and death within a household has a negative impact on enrolment, attendance and performance of a child in school (World Bank/UNICEF, 2002). In Mozambique only 24% of children who have lost both parents attend school compared with 68% of children whose parents are alive (Currah and Whaites, 2003). However, there are also some studies which challenge the assumption that orphans are the most vulnerable (e.g. Ainsworth and Filmer, 2002; Huber and Gould, 2002), for example it has been found that **in some contexts poor children are more likely than orphans to be out of school. In most developing country contexts gender inequalities result in more girls being out of school** (Human Rights Watch, 2005). Illiteracy is particularly devastating for girls. Girls who are denied education are more vulnerable to poverty, hunger, violence, abuse, exploitation, trafficking, HIV/AIDS and other diseases and maternal mortality. If they become mothers, there is a greater chance that they will bequeath illiteracy to poverty to the next generation (UNICEF, 2005a).

Children who are orphaned or made vulnerable by HIV/AIDS experience a wide range of rights violations (see World Vision, 2005; Williamson, 2000) including: deprivation of parental care (article 9), stigmatisation and discrimination (article 2); lack of food, shelter and clothing (article 27), lack of access to health care (article 24). Furthermore, children are forced to drop out from school to help care for ill parents, or siblings and/or to earn an income to contribute to the diminished family livelihood – thus depriving them of an education (article 28, 32). Girls are more likely to be forced to drop out to care for family members, including siblings; and are at increased risk of sexual exploitation (article 34, 35) and HIV/AIDS infection (Human Rights Watch, 2005; Firelight Foundation et al, 2005). Overall, the HIV/AIDS epidemic has a significant negative impact on the education system for children, as in addition to school drop out, schools are becoming dysfunctional in the hardest hit countries as significant numbers of teachers are lost due to illness and death (UNAIDS/UNICEF 2005a MFOA). The legal rights of orphan children also need protecting, as children are at high risk of being separated from their siblings, losing their rights to family property (article 8) and being mistreated by caregivers who may not have their best interests (article 3) at heart (Firelight Foundation et al., 2005).

Table 2. Overview of rights violations

Common Violations of Rights of Children Orphaned by HIV/AIDS or other causes	
Survival:	Development:
Poverty (article 27)	Increased likelihood of school drop out and reduced performance in school (article 28)
Reduced access to food (article 24, 27)	Reduced opportunities to play (article 31)
Reduced access to adequate shelter (article 27)	Increased stigma and discrimination (article 2)
Lack of access to appropriate health care (art 24)	Psycho-social distress
Lack of social security (article 26)	Reduced guidance and love from adults (article 9)
	Identity and inheritance rights (article 7, 8)
Protection:	Participation:
Increased risk of neglect and abuse (article 19)	Lack of opportunities for expression and participation decision-making in alternative care settings (article 12, 13)
Increased risk of sexual abuse and sexual exploitation (article 33, 34)	Lack of opportunities for association (article 15)
Increased risk of child labour and economic exploitation (article 32) - increased household responsibilities	Lack of information (article 17)
Increased risk of living on streets, survival behaviour (articles 9, 10, 34, 37, 39)	
increases risk to coming into conflict with the law (article 37, 39)	
Increased risk of recruitment in armed forces (article 38)	
Lack of effective care planning or reviews (article 25)	

The rights violations facing many children living in institutional care have also been widely reported (Save the Children, 2003; Carter, 2005; Williamson, 2004a; Tolfree, 1995; Tolfree, 2003; Williamson, 2004b; Cantwell, 2005). Many features of residential care are an abuse of children's rights and pose a serious threat to their normal developmental processes (Save the Children, 2003). Children in institutional care are more likely to suffer from attachment disorders, developmental delay and deterioration in brain development (Johnson et al., 2006). Brain studies have revealed how the right hand side of the brain concerned with emotional behaviour and responses develops in the first 3 years. Thus, during this period quality interaction between the child and at least one main carer is critical (Carter, 2005).

Children in residential institutions are denied rights to parental care (article 9) or to family re-unification (article 10). They often live in over-crowded, poorly resourced premises (particularly in CEE/CIS region and developing countries) - thus violating their rights to a decent standard of living (art 27). Bureaucratic regimes within institutions often deny children their rights to play (article 31), and freedom of expression (article 12 and 13). Furthermore, children are likely to lose their identity (article 7, 8) and may be forced to change or adopt a religion that was not their own (article 14). Children from institutions often face discrimination and stigma from the wider community (article 2). The prevalence of neglect and abuse including physical, emotional and widespread sexual abuse of children (article 19, 34, 35) within residential institutions has been established in the West, as well as in developing countries (Cantwell, 2005; UNICEF, 2005). Children in institutions are often neglected, excluded from decision making processes (article 12), without effective care planning or reviews processes (article 25), such that their placement is not in their best interests (article 3). Furthermore, children who have grown up in care without access to family care - may face an abrupt entry into adult life, with increased risks of poverty, homelessness, alcoholism, drug use, violence and abuse, economic, sexual and criminal exploitation (UNICEF Innocenti Insight, 2005; Save the Children, 2003).

The problem of leaving care are partially inherent in the processes of life in care, particularly in large children's homes, but also in the public images of children who have lived in care. The question of support for children and young people leaving care is seen as crucial by them and by social services staff. It is also a prime example of where the failure to listen properly to children's

views, experiences, and needs results in a service that is inadequate. Children leaving care want independence, but they also want support in the form of a continuing personal relationship (Save the Children, 2006a).

As described earlier **separated children seeking asylum, children living on the streets, as well as other groups of children without parental care may enter similar negative cycles of marginalisation** characterised by violation of their rights to survival, protection, development and participation.

Summary of (immediate and root) causes of child right violations facing children without parental care:

<ul style="list-style-type: none"> ▪ Lack of support to families/ extended families ▪ Fragmented, under-resourced and inappropriate government policies and practices ▪ Weak social welfare system (lack of effectively trained social workers) ▪ Low Government priority on care and protection issues ▪ Weak governance ▪ Low status of children’s voices ▪ Gender Inequality ▪ Abuse against girls and boys ▪ Patriarchal culture ▪ Discrimination on the grounds of gender, ethnicity, disability or HIV/ AIDS status ▪ Use of medical model for responding to disability 	<ul style="list-style-type: none"> ▪ HIV/ AIDS epidemic ▪ Armed conflict ▪ Poverty ▪ Globalisation ▪ Lack of access to basic services (health, education, social protection) ▪ Unemployment ▪ migration ▪ family disintegration ▪ family stress ▪ alcoholism and drug use within the family ▪ domestic violence ▪ child abuse and neglect.
--	--

5 Analysis of Duty Bearers

5.1 Analysis of Main Duty Bearers

In each context it is important to identify the main duty bearers who have responsibilities to prevent children from being separated from their parents, while also protecting and fulfilling the rights of all children who are without parental care. The State is the primary duty bearer who has responsibilities to care and protect all children within their jurisdiction. In particular the State has duties to support families in their crucial care-taking role of children (article 9), and to undertake all necessary action to fulfil children’s rights (article 4).

“State Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognised in the present Convention. With regard to economic, social and cultural rights, State Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation.” (UN CRC, Article 4)

Circle analysis of the main duty bearers:



Key duties/ responsibilities of main duty bearers:

Families/ extended families: to care, protect and guide children; to be non-discriminatory (gender, ethnicity, dis/ability etc); to listen to children's views; to enable children to study and to play; to meet their basic needs for food, water, clothing, shelter; to enable cultural identity, expression of religion and belonging.

Relatives and neighbours: to support families to care and protect children in their communities; to ensure children's inheritance rights are respected; and to support families in fulfilling all other duties to children described above.

CBOs, religious leaders, community elders, Schools: To support families, relatives and neighbours in all duties described above; to tackle discrimination (arising from HIV/AIDS status, disability, gender, ethnicity etc); to monitor and respond to child rights violations; to support children's access to all basic services (education, health, social protection); to help mediate conflicts at family or community level.

NGOs, Local government and local business: To support families and communities in fulfilling duties described above; to ensure resources for children to access quality, basic services (education, health, social protection); to enable children to access alternative family/ community based care when they cannot (or it is not in their best interests) to live with their families; to advocate for appropriate government policies and practices.

State Government: To make use of its available resources to honour children's rights (UNCRC); to develop integrated child focused legislation which protects the rights of all girls and boys; to develop policies and practices which strengthen the capacities of families, communities and civil society to better care and protect all girls and boys (to fulfil all duties described above) – including access to social protection and access to basic services (including education for all and access to health treatment for HIV/AIDS); to ensure multi-disciplinary response to address root causes of family separation including poverty, discrimination, HIV/AIDS and conflict; to support alternative quality care placements for children (who cannot live with their own families); to involve children, families and communities in policies and practices affecting them; to fulfil the MDGs and implement PRSPs; to collect and analyse disaggregated information concerning children in care.

INGOs and UN: To strengthen the role of the State in fulfilling their duties (as described above) and becoming more accountable e.g. through supporting improved legislation, policy, strategy or practice developments; to address gaps in rights fulfilment or violation of rights through practical strategies (e.g. support de-institutional care efforts; demonstrating community based models of prevention, care and protection; and enabling children to better access education, health, psycho-social support etc); to empower children and families to assert their rights; and to build child rights constituencies which can advocate for policy and practice improvements in the best interests of the child, including international quality standards for children without parental care.

International donor community, World Bank and IMF: To support the State in fulfilling all duties described above; to implement strategies which help reduce poverty, inequality, conflict and other root causes of family separation; to provide funds which support strengthening of families and communities to better care for and protect their children; to involve children and young people in policies that affect them.

5.2 Relation between the State and NGOs

This sub-section briefly explores the relationship between the state (government duty bearers) and non-governmental organisations (NGOs) or UN regarding children without parental care or at risk of parental separation⁶

5.2.1. Some general considerations regarding the relationship between the non-profit sector and governments

The meaning and magnitude of the relation differ by type of organisation (large charities vs. small local associations), field (social services vs. international development), and level of government involved (e.g. federal vs. state vs. country/city; or central, regional, local). The relation involves different aspects and “flows” (Katsioloudes, 2002):

- funding (grants, fee-for-services contracts, concessionary loans, etc.)
- non-monetary support (facilities, expertise, goods and services in kind);
- mandates (government required to involve non-profit associations in implementing policy);
- regulations and accountability.

The theoretical rationale for governments to develop some form of relationships with NGOs offer three initial answers:

- substitute and supplement: NGOs step in to compensate for governmental undersupply;
- complement: the financing (government) and providing (NGOs) roles are split;
- adversary: if demand is heterogeneous, minority views are not well reflected in public policy; if NGOs advocate minority positions, the government may in turn try to defend the majority perspective, leading to potential conflicts.

To varying degrees, all three types of relations are present at any time, but some assume more importance during some periods than in others (Katsioloudes, 2002). Using the UK as an example, the NGOs – government relation can be seen as following:

- supplementary: NGOs provided voluntary services not covered by the welfare system;
- complementary: contracts and partnerships between governmental and NGOs were formed in response to new public management and outsourcing.
- adversarial: NGOs include groups advocating for the rights of needy people left un-served and under-served by state.

Kramer (1987) points out that contracting-out non-core functions to NGOs brings a number of advantages to the government, such as avoiding start-up costs, generating more accurate cost determinants, avoiding civil service staff regulations, and easing the process of altering and stopping programs.

Approaching the consequences of governments supporting NGOs, some scholars argue that:

- NGOs will tend to adjust their behaviours to satisfy the agendas of their governments;
- NGOs will be at risk of having to stray from their intended mission to attract and keep public funding;
- NGOs will become too bureaucratized, over-professionalized and politicized; they might lose their autonomy and flexibility.

⁶ **Government duty bearers** – those duty bearers in the process of child protection and care which are part of the public administration and directly linked to it (regional, national and local authorities) as well as Parliaments who are the legitimate representatives of societies.

Non-Governmental Organisations (NGOs) – the term is used to describe a range of organisations that bring together the principal, existing or emerging, structures of the society outside the government and public administration. NGOs are created voluntarily by citizens, their aim being to promote an issue or an interest, either general or specific. They are independent of the state and can be profit or non-profit-making organisations. It is important to be noticed that there is still not a generally accepted definition for the NGOs. In many publications it is considered to be similar to Community Based Organisation (CBO) or Civil Society (CS). This paper considers the term “**Civil society organisations**” as being broader than the NGOs and also includes social movements, think tanks, women’s rights movements, grassroots and indigenous people’s movement.

5.2.2 The relationship between the government duty bearers and (NGOs) or UN regarding children without parental care or at risk of parental separation

The relationship between the State and NGO or UN agencies in supporting the provisions of CRC is dynamic, and has undergone significant transformation in the last century following the political, economical, social and cultural trends in the development of the society. However, the UN CRC (and other human rights treaties) provides State Governments, UN and NGO agencies with a rights-based framework and base for their partnerships.

The adoption of the UN CRC in 1989 marked the beginning of a new era in the relation between NGOs and state duty bearers. The relation between UN CRC and NGOs reflects this shift in the development of the NGOs. On one hand, concerning the impact of NGOs on the CRC, the following considerations arise:

- Even though NGOs were not the major instigator of the CRC, they played a more significant role in the drafting of CRC than in relation to any previous international human rights treaty;
- The establishment of a 23 member Informal NGO Ad Hoc Group on drafting of the Convention ensured a significant impact on the substantive provisions of the UN CRC, and set a successful precedent for NGO involvement in the continuing process of implementation;

The UN CRC has probably had its greatest impact on the mandate and work of international children's rights NGOs (UNICEF, Innocenti, 2005). Many INGOs including Defence for Children International, Terre des Hommes and Save the Children use the CRC as a key framework to develop and implement strategies and programmes. Local NGOs have emerged to further lobby for the fulfilment of key child rights. Furthermore, international strategic NGO coalitions have been formed to ensure joint advocacy and action on thematic child rights areas. Such coalitions include: the NGO Group for the CRC, the Global Movement for Children, the Better Care Network, the Global Campaign for the Right to Education, the International Campaign to End Child Prostitution, Pornography and Trafficking (ECPAT), and the Coalition to Stop the Use of Child Soldiers.

The UN CRC provides both NGOs and state duty-bearers with a rights-based framework and base for their partnerships. This adds value to the NGO-state duty bearer relation and is a precondition for the accountability and sustainability of this relationship. International practice has shown that NGOs can perform different tasks in relation to the state duty-bearer based on the provisions of the UNCRC, including:

- lobbying the state duty-bearers in: identifying the priorities in their policy regarding children's protection and care; defining their national politics regarding children's rights; reforming the system of child care (see in this context the de-institutionalisation process)
- developing and implementing sustainable programmes and services to enable children and families in difficult circumstances to fulfil their rights;
- lobbying and advocacy on behalf of or together with the most disadvantaged categories of children and families for the real fulfilment of their rights;
- lobbying and advocacy for: a comprehensive legislative and institutional system of child protection and care which do not allow any discrimination; for the right allocation of funds which sees children's rights observation as a national priority; and in developing monitoring systems for children's rights implementation;
- keeping the state duty-bearers accountable for their responsibilities (through alternative or complementary monitoring systems)
- supporting children and families in expressing their views and make sure they are taken into consideration in the decision-making process of state duty-bearers.

On the other hand state duty-bearers are responsible to encourage a positive operational environment for NGOs through:

- promoting pluralism and accountability in their governance;
- setting supporting legal frameworks;
- developing taxation policies that encourage the work of NGOs
- promoting and seeking collaboration with NGOs

- organising public consultations and information with NGOs (offering chances for political impact) ;
- developing a coordinating role of NGOs
- supporting officially the activities of NGOs (government funding, official contract, etc.)

Globally, there is a growing understanding that State government and civil society organisations cannot operate independently and both can be more effective when they engage with each other. Governmental agents find themselves pressured to work with reputable NGOs and use their expertise. A healthy state duty-bearer – NGOs relation is possible when:

- both NGOs and state duty-bearers share the same objectives (in this case reducing the risk of child abandonment and improving the situation of children in alternative forms of care)
- state duty-bearers have a positive social agenda
- NGOs are effective and prove transparency, accountability and sustainability in their work;

5.3 Key Obstacles Preventing States from fulfilling their responsibilities

These include:

- Lack of political will – low priority of child rights issues, especially care and protection issues.
- Fragmented, under-resourced, ineffective ministries concerned with social welfare, children’s care and protection (e.g. responsibility for children’s care and protection is often divided between 4 or 5 Ministries)
- In some regions there continues to be an over-reliance on institutional care and a lack of knowledge and capacity (e.g. lack of social work, foster care system) to support prevention work, family re-unification and family and community based care and protection alternatives.
- Lack of funds for community based prevention, care and protection work.
- Scale of care concerns, the system is over-whelmed with insufficient resources to respond effectively (e.g. in countries affected by HIV/AIDS epidemic, in emergencies, as well as in industrialised countries e.g. UK where foster care system is over-whelmed).
- An over-reliance on families and communities and belief that they can support children without State support.

6 Main Programmes/Strategies of key players at global level

There is currently an unprecedented level of awareness of the need to respond to the rights of children without parental care due to: the scale of children orphaned by HIV/AIDS; awareness of bad conditions of institutions in many CEE/CIS countries; in-depth investigations of abuse in care facilities in Western Europe; and inappropriate responses by private foreign agencies in responding to children in emergency situations (Cantwell, 2005). Furthermore, among key players at a global level including UNICEF, UNAIDS and child focused international organisations (including International Social Services, Save the Children, SOS Children’s Villages, EveryChild, Defence Child International, BICE, World Vision, Terres des Hommes, International Foster Care Organisation, International Federation of Social Workers) there is increased agreement and joint advocacy regarding the need to support State governments to develop effective care and protection systems at all levels (local, national, regional) based on the principles of children’s rights, and to implement multi-sector strategies which address the root causes of separation including poverty, HIV/AIDS, conflict, discrimination and abuse (see UNICEF 2005, Tolfree 2005, Cantwell, 2005).

6.1 UN agencies

6.1.1 Framework for Protection, Care and Support of Orphans and Vulnerable Children

At a strategic level, the UN and a range of other agencies have defined ‘The Framework for the Protection, Care and Support of Orphans and Vulnerable Children Living in a World with HIV/AIDS and AIDS’ (2004) to guide different agencies in responding to the care needs of children affected by HIV/AIDS. This Framework has evolved from experience in those countries most affected by HIV/AIDS, however it may be adapted to other contexts.

Strategic Framework for the Protection, Care and Support of Orphans and Vulnerable Children Living in a World with HIV and AIDS (UNICEF *et al*, 2004):

1. Strengthen the **capacity of families** to protect and care for orphans and vulnerable children by prolonging the lives of parents and providing economic, psychosocial and other support.
2. Mobilize and support **community-based responses**.
3. Ensure access for orphans and vulnerable children to **essential services**, including education, health care, birth registration and others.
4. Ensure that **governments protect** the most vulnerable children through improved policy and legislation and by channelling resources to families and communities.
5. Raise awareness at all levels through advocacy and social mobilization to create a **supportive environment** for children and families affected by HIV/AIDS.

A **Companion Paper** to this Strategic Framework concerning 'Child Protection and Children Affected by AIDS' (UNICEF, 2006) has also been recently published. The paper highlights how protecting children affected by AIDS requires strengthening national and community-level responses for all vulnerable children. Governments, civil society and their partners can make real progress towards this goal by enhancing social protection, legal protection and justice and alternative care. This work must be underpinned by efforts to address the silence and stigma that allow both HIV- and AIDS-related discrimination, abuse and exploitation of children to continue. It also requires strengthening government authorities that hold the bulk of responsibility for protection, to more effectively provide oversight and coordination. This responsibility often falls to government social welfare agencies, but may also include health, education and other agencies.

The Companion Paper outlines three action areas to help strengthen protection for children affected by AIDS, namely: social protection; legal protection and justice; and alternative care. Two cross-cutting recommendations also include: addressing stigma related to HIV/AIDS and child protection; and strengthening the state's social welfare sector.

Within the **Alternative Care** action area, proposed action includes:

- **Finding appropriate ways of supporting and monitoring informal care arrangements** to ensure children are protected in extended families and other settings where parents are not present.
- **Improve the formal care system** to reduce overuse, guard against protection violations, encourage appropriate permanence planning, and provide opportunities for children and caregivers to express their preferences.
- **Develop government and community-based protection and monitoring mechanisms** that are supported by national guidelines and standards for care providers.

Actions to **strengthen the state's social welfare sector** include:

- **Increase budgetary allocations to government agencies responsible for social welfare, alternative care and protective services** to a level adequate, at minimum, for providing statutory services and coordinating and regulating services provided by local government and non-government agencies.
- **Invest in human resources within the social protection system** to increase the size, competency and reach of staff from both government and non-governmental service providers.
- **Develop regulations, guidelines and coordination mechanisms** aimed at improving implementation of social protection policies and ensuring more effective service provision.

6.1.2 UN CRC Committee

Submissions to and recommendations from the September 2005 **the General Day of Discussion on children without parental care** organised by the **CRC committee reiterated the importance of prevention work and strengthening of families** as 'the natural environment for the survival, protection and development of the child'.

Recommendations from the CRC committee following General Day of Discussion (2005) included:

- State governments should develop national policies which strengthen families, by providing subsidies and material assistance, including access to social and health services, child-sensitive family counselling services, education and adequate housing.
- Concern regarding the fact that children living in poverty are over-represented among the children separated from their parents both in the developed and developing countries was highlighted.
- Where-ever possible children should be kept in their own families and in their own distinctive communities. Community protection networks should be supported as an active measure towards local monitoring and responding to a range of care and protection needs of girls and boys, supporting children and families at an early stage.
- Local multidisciplinary teams working with the most vulnerable families are more likely to reach the family and to find individual solutions based on the actual situation of the family.
- Furthermore local level authorities should be strengthened (with human and financial resources) to ensure children have access to basic services in their own communities.
- Concerns regarding children's lack of participation in decisions relating to their care and protection were also highlighted. Greater efforts must be made to promote their participation in all settings.
- Recognition of children's individuality and the importance of individual care planning guided by the best interests of the child were also re-iterated.
- While placements with children's own family should be a priority, where it is not in the best interests of the child, alternative family based care options should be supported (e.g. with extended family members, foster care etc). The long term placement of children in institutions must be avoided.
- The committee also drew attention to several groups of children in need of special support measures, such as children with disabilities, children associated with drug abuse, street children, refugee children or asylum-seeking children and children infected with or affected by HIV/AIDS.
- It was recommended that a set of international standards for the protection and alternative care of children without parental care be developed for the UN General Assembly to consider and adopt in 2006. These standards should have a multi-track approach, i.e. to regulate the separation and placement into out-of-home care, to standardise the out-of-home care and the transition from the out-of-home care back to the family or into society and at the same time to seek measures how to prevent placement and institutionalisation. With this regard, the Committee underlines the need to hold consultations with children and their parents throughout the process.

6.1.3 UNICEF

The strategic work of UNICEF as the key UN agency concerned with the protecting the rights of the child, also has an explicit focus on children without parental care.

UNICEF Mid Term Strategy 2006-2009 focuses on investing in children to ensure contribution to poverty reduction and the Millennium Summit Agenda. UNICEF's work focuses on 5 strategic areas including: HIV/AIDS and children (focus area 3) and Child Protection from Violence, Exploitation and Abuse (focus area 4). As part of this area UNICEF 'seeks to reduce the number of children separated from their families and strengthen national capacities to ensure access by poor families to services and safety nets needed to protect and care for their children'. Key areas of action by UNICEF include:

- improved systems for providing alternative care, including standards, policies and systems for monitoring foster care and adoption
- birth registration
- improved registration, tracing, interim care and family reunification in all emergencies; and establishing child friendly spaces and providing psycho-social support.
- Increase the number of social workers and quality of their training.

A human rights approach and gender equality is cross-cutting, and includes endeavours to support parents, caregivers and families to meet their responsibilities for upbringing, care and development of their children. Furthermore, parents, families and civil society will be empowered to hold states accountable for quality of services and avail of resources for children. UNICEF are supporting states to become more accountable by strengthening their data and analysis of child protection issues, and to develop policies and practice which enable communities and/or government services to reach all children and families identified as vulnerable. Community based social services and community approaches for reducing the vulnerability and stigma of at risk children and families are being supported, as well as efforts to build the capacity of the social work/welfare sector.

6.2 International Agencies and Network

6.2.1 The Stockholm Declaration

In May 2003 the second **international conference on 'Children and Residential Care'** was held in **Stockholm**, sponsored by the Swedish Foreign Ministry and the Swedish International Development and Co-operation Agency (Sida) (see box below).

Extracts from the 'Stockholm Declaration' (May 2003)

During the 2003 Stockholm meeting more than 600 individuals from governments, civil society and the research community from 71 countries agreed to the 'Stockholm Declaration' which reaffirmed State responsibilities to protect children's rights by ensuring: prevention work (including fighting discrimination and supporting families); use of institutional care only as a last resort and as a temporary response; more effective monitoring of care systems in line with CRC and agreed standards; and increased participation of the children and young people. Civil society organisations were encouraged to: assist in the development of strategies to deinstitutionalise children and create alternatives; to promote non-discrimination; to mobilise communities to support families to prevent children from being deprived of family care; to push governments to fulfil their commitments under the CRC to children in public care; and to support children's participation. National and international funding partners were urged to: support the development of preventive initiatives and alternative care systems.

6.2.2 European Union - European Commission Communication: "Towards an EU strategy on the Rights of the Child"

The communication "Towards an EU strategy on the Rights of the Child" (EC Communication) was adopted by the European Commission on 4th July 2006. Its content is quite general, which might open the door to many actions and initiatives, but might also lead to missed opportunities, the actions proposed being minimal with no targets or clear objectives. The ambition of the Commission with this communication is to start developing a long term European Union strategy on children.

Generally speaking, the EC-Communication points out the fact that children living with poor parents or who cannot live with their parents are particularly exposed to poverty, exclusion and discrimination. It also stresses that parental poverty and social exclusion are factors which seriously limit the opportunities open to children and their access to their rights. It also underlines the right of children to maintain relations with his/her parents. Without mentioning residential care, the Communication states that the places where children live influence their situation but it also underlines the right of children to maintain relations with his/her parents. Regarding OVC and HIV-AIDS, it states 140 million children are orphans and that this number is growing, due to HIV/AIDS.

The main advantages of having a European Union action in the field of children rights are first of all the almost universal acceptance by States of obligations in the field of Children's Rights. This provides a particular robust basis for engagement between the European Commission and non-EU countries. Moreover, the European Union's obligation to respect Children's Rights implies the duty to take them into consideration in the conduct of its own policies under the various legal basis of the Treaties (*mainstreaming*) – various instruments and methods can be envisaged in this regard, including legislative action, soft-law, financial assistance and political dialogue. Finally, the European Union can support Member States in their efforts, by assisting them and by providing a framework for mutual learning.

In the aftermath of the adoption of the CRC and to ensure its follow-up, both the European Commission and the European Parliament are currently planning actions, developing strategies and opinions. In particular, the Directorate General Development is preparing a strategy on children highlighting the need to have programmes aimed at preventing child abandonment and strengthening families. In the framework of the European Parliament, the LIBE committee (Civil Liberties, Justice and Home Affairs) is working on a response to this communication that should be published by March 2007. What is more, the Directorate of Justice, Freedom and Security plan to have a Unit on Children by 2007, with a coordinator for inter-service

work. Also, a European Forum for the Rights of the Child open to NGOs will be created and a web-based discussion and work platform will be set-up.

Since the first drafting steps of this communication, a coalition of NGOs (including SOS Children's Villages as a member) regularly contributed to the development of this document, in cooperation with the European Commission. In order to ensure a sustainable and effective follow-up of this communication, this NGO group is currently developing an action plan.

6.2.3 SOS Children's Villages

SOS Children's Villages provides family-based child care for children who have already lost the care of their own family through the SOS family childcare model within SOS Children's Villages. More recently the organisation has developed family strengthening programmes to also address the situation of children who are at risk of losing the care of their biological family. Family strengthening programmes aim to prevent children from falling out of their family and community. This is done by supporting families to strengthen their ability to care for their children, and strengthening safety nets for vulnerable children and their families within the community. *See case study in Annex 1*

The organisation has developed a position paper (SOS-Kinderdorf International, 2005) on 'a Child's Right to a Family'. SOS Children's Villages have also been part of a 'Quality4Children' collaborative initiative with International Foster Care Organisation (IFCO) and (International Federation of Educative Communities) FICE to establish quality standards for children in care settings across Europe.

6.2.4 International Social Services (ISS)

ISS has undertaken significant strategic work to further the care and protection of children without parental care. In 2004 a series of four joint working papers calling for international standards were developed and disseminated by ISS and UNICEF. These papers included a main paper outlining the need for international standards for children without parental care, and three complementary papers focusing on the specific needs of children in emergency situations, children affected by HIV and children living in kinship care. ISS and UNICEF also played an instrumental role in establishing an NGO working group to advocate for and provide guidance to the UNCRC committee in developing international standards.

ISS propose that the international standards on the protection of children without parental care give special prominence to the following CRC-based thrusts:

- "primacy of efforts to maintaining the child with his or her parents by providing necessary support to the latter in their care-giving role, i.e. preventing unwarranted or arbitrary separation
- ensuring the planned provision of a range of alternative care options, with priority to family- and community-based solutions,
- securing permanency for the child without undue delay through, wherever possible, reunification with the family or in an alternative stable family setting,
- protection from abuse, neglect and exploitation in all care settings."⁷

Prevention work is emphasised by ISS, as maintaining the child in the family of origin must be achieved, whenever possible, as a matter of priority, even if the family of origin does not seem to be the "ideal" or its habits and ways of life differ from those of the majority of the population (see ISS, 2005). It is in the family where the best conditions for the child's optimal upbringing are to be found, where they are best for forming ties to one or two key, reliable persons, who provide his/her security. When risk factors are detected in a family that are potentially dangerous for the child, since we know from experience that they can give rise to cases of abandonment, ill-treatment or gross neglect, it is important to develop psycho-social family support services that can arouse other protective factors in the child, the family and the environment, so that they manage to

⁷ *Proposed International Guidelines for the Protection of Children Without Parental Care, An Initial Overview of Issues to be Addressed*, NGO Working Group on Children Without Parental Care, Geneva, 20 January 2005, http://www.iss-ssi.org/Resource_Centre/Tronc_DI/documents/NGOGpGuideOverview040205.pdf.

compensate or cancel out the risk factors. Social work with families should facilitate internal family relationships and at the same time promote the family's integration within its community and their ability to access increased resources which enable better protection of their family members (see ISS, 2005). *See case study in Annex 1.*

In cases where children do not have parents, and/or it is not in the best interests of the child to remain with their parents, ISS advocate that alternative family care options such as kinship care should be supported. Kinship care can be adapted to the need and interests of the child, since it allows the child to stay in a familiar environment and thus provides some level of continuity in his/her social and affective development. It may be foreseen as a long-term solution or as a temporary measure aimed at solving specific problems, depending on the circumstances of each situation. Kinship care families, whether formal or informal, just as other foster carers, should be provided with adequate financial and psycho-social assistance.

To guide policy and practice developments in the best interests of the child, ISS has produced a series of fact sheets on various topics relating to children without parental care including: a global policy for children and the family, family reintegration, kinship care and adoption.

6.2.5 Save the Children

International child rights organisations such as Save the Children have developed strategic programme and policy initiatives to further the rights of children without parental care and/or at risk of family breakdown, including their 'Last Resort' position paper on residential care, and the production of a 'First Resort' series to promote prevention work and positive care options for children.

Save the Children's 'First Resort' series (2005): A Call for Action:

1. Acceptance that care and protection of children is a fundamental role of government
2. Prioritise family support and keep children in families wherever possible
3. Empower children
4. Build on existing community strengths but encourage innovation
5. Support international standards for children deprived of parental care
6. Accelerate the process of deinstitutionalisation
7. Increase public awareness
8. Encourage funders to promote family-centred care
9. Make knowledge available to all (e.g. increased practice exchange and information sharing)
10. Fill the research gaps (e.g. more participatory research with children; long term studies that examine outcomes for children of different approaches; and cost-effectiveness analysis of protection options).

Save the Children UK promotes fulfilment of children's care and protection rights. Their ultimate aim is to significantly strengthen the protective systems, networks and other mechanisms that can prevent, address and remedy the harm that our target groups face as a result of abuse, neglect and exploitation. Save the Children work closely with children as partners in their own protection, as well as with the communities in which they live. They seek to build up a coherent body of work and promote an integrated, community-based approach to the care and protection of children that is applicable across a wide range of settings. This will be advocated for at the international as well as national level. Better protection systems should cover all 'at risk' children and ensure that duty bearers acknowledge and fulfil protection rights. *See case study in Annex 1.*

6.2.6 EveryChild

EveryChild works worldwide (in Eastern Europe, South Caucasus and Central Asia; Africa; Asia; and Latin America and the Caribbean) to give vulnerable children who are, or risk being, separated from their family or community a safe and secure future. They seek:

- to give children the chance to grow up in loving families and communities.
- to protect children from abuse, discrimination and exploitation.

- to empower children, their families and communities to create opportunities for a better life.
- to innovate to bring about lasting, positive change in partnership with communities and governments.

EveryChild supports **prevention work** to prevent children being separated from their families and supports **family-based care options** to solve and address the problems of institutional care. In supporting both the prevention work and a range of family based care options EveryChild has supported the **establishment and strengthening of social worker systems**. EveryChild have substantial experience of piloting children and family assessment services in partnership with governments in the region to train and support locally recruited social workers in modern assessment methods and child protection skills; and to support the development of kinship care and foster care systems. EveryChild have pioneered use of the '**foster care**' approach across South Eastern Europe and Former Soviet Union , where the concept is relatively new and unheard of. Public awareness campaigns about the benefits and role of foster carers have been necessary. Furthermore, significant efforts are required to recruit, train and retain carers, and to undertake the usual assessment and preparation of the families and children concerned. Foster parents must also be provided with ongoing support from the social workers.

EveryChild encourages and supports local, national and international governments to fulfil their commitments to uphold child rights. EveryChild also seeks to play an active and prominent role in networks and alliances concerned with child separation both in UK and the regions in which they work. *See case study in Annex 1.*

6.2.7 International Foster Care Organisation (IFCO)

IFCO is an International Network for the promotion of family based solutions for out-of-home children based on the Convention on the Rights of Children (UNCRC) stating that children have a right to grow up in a family environment. IFCO promotes foster care as an important alternative for children without parental care through the enabling of the exchange of knowledge and experience. IFCO has a pool of international experts, trainers, consultants and individual as well as organisational members worldwide, and is active in projects all over the world, cooperating with public or private bodies, Universities, NGO, Governments and UN or EU entities.

IFCO organises conferences, seminars and trainings and projects to support the development of foster care in countries where formal foster care is not yet developed or needs improvement. IFCO always works in cooperation with National/ local governments and non-governmental organisations. As described (above) IFCO has undertaken significant endeavours to promote and develop minimum standards for all types of out-of-home care for children *See case study in Annex 1.*

6.2.8 Global Better Care Network

The Global Better Care Network (BCN) was initially established by UNICEF, USAID, DCOF, Save the Children UK, Care and the Hope for Africa's Children Initiative in 2003 to further information and practice exchange. Since the appointment of a full time coordinator in 2005 the global network has been functioning more systematically, facilitating active information exchange and collaboration on these issues and advocates for technically sound policy and programmatic action on global, regional, and national levels. It brings together a range of key players: UN, INGOs, local NGOs who are concerned with children without adequate family care. In all its work, the Better Care Network is guided by the principles of the United Nations Convention on the Rights of the Child and the Stockholm Declaration.

The Better Care Network is committed to:

- Reducing instances of separation and abandonment of children;
- Reuniting children outside family care with their families, wherever possible and appropriate;
- Increasing, strengthening and supporting family and community based care options for children who cannot be cared for by their parents
- Establishing international and national standards for all forms of care for children without adequate family care and mechanisms for ensuring compliance; and
- Ensuring that residential institutions are used only as a last resort.

6.3 International Guidelines for Children without Parental Care

In taking forward recommendations from the UNCRC committee to **develop International Guidelines** for the protection and alternative care of children a number of existing global and regional initiatives may be build upon including:

- **Changing Minds, Policies and Lives** joint project by **World Bank and UNICEF**: Project supporting national programmes to reduce the institutionalisation of vulnerable children in transition countries in CEE/CIS through reform of child welfare systems. Standards, as well as better systems for gate keeping have been developed as part of this project.
- **Working papers developed by ISS/UNICEF**: A Call for International Standards, and special papers concerning: kinship care, HIV/AIDS, and working in emergency contexts.
- **Quality4Children**: Joint initiative by FICE (International Federation of Educative Communities), IFCO (International Foster Care Organisation) and SOS Children's Villages to establish quality standards for children in care in European countries based on the CRC and upon views and experiences of people who are directly involved in and concerned with out-of-home care, such as children and youth, their biological families and care givers.
- **Save the Children (2005) Raising the Standards**: A set of quality child care standards developed in east and central Africa, based on CRC and applicable to a range of care settings.
- **NGO working group on children without parental care** which has been established to further advocacy and implementation of international standards.
- **Global Better Care Network**

A first draft of the guidelines was developed by the NGO working group on children without parental care, based in Geneva, at the request of the UN Committee on the Rights of the Child. UNICEF and International Social Service have been closely involved in the drafting process. The Better Care Network's advisory group reviewed and commented on the guidelines. Young people have also been included in the consultations, providing valuable insight into matters that affect them.

In May, 2006, the draft guidelines were submitted to the UN Committee on the Rights of the Child. The Committee reviewed and strengthened the guidelines in preparation for informal technical review by UN member states.

In August, 2006 the Brazilian government hosted an inter-governmental meeting of technical experts to further refine and strengthen the guidelines. The two-day meeting, held in Brasilia, drew over 40 governments representing all the regions of the world. The meeting was extremely positive. Amongst other developments, a 15-country review board was established at the meeting to facilitate further revisions.

The international guidelines seek to ensure that, on the one hand, children do not find themselves in out-of-home care unnecessarily and, on the other, out-of-home care provided is of a type and quality that corresponds to the rights and specific needs of the child concerned. They are designed to promote, facilitate and guide the progressive implementation of the Convention on the Rights of the Child in this particular area of concern. The non-binding Guidelines, ultimately for adoption by the United Nations General Assembly, address not only governments but also international bodies and organisations, civil society, professionals, voluntary organisations and the private sector to the extent that they are directly or indirectly involved with organising, providing or monitoring out-of-home care for children.

For further reading see the accompanying paper "Intervention strategies of key agencies working with children without parental care" (O'Kane, C. & Verweijen-Slamnescu, R. 2006)

7 Range of Prevention and Out of Home Care Options

Children with inadequate or no parental care are at risk of being denied a caring and protective environment. The State has the main responsibility to ensure that appropriate legislative, political and financial measures are undertaken in order to provide adequate alternative care options “with priority to family- and community- based solutions”. According to the particular needs of individual children, different forms of care should be provided.

Generally, the best possible environment for children’s development is the family. All stakeholders should ensure efforts to sustain and empower families to exercise their functions to care, protect and empower children. In cases where it is in the best interest of the child to be separated from his/her family, the most appropriate form of out-of-home care should be identified and provided.

In different political, economical, social and cultural contexts in different parts of the world, a spectrum of forms of care have been provided. Recent publications concerning care options (e.g. Tolfree, 2005) have emphasised the importance of “*a package of protection of care*”. The idea of “packages” implies a range of responses, which can be combined to meet the individual needs of the child. This term is preferred to the idea of a “continuum of care” as the latter may be seen to imply a linear progression of responses which emphasises substitute care option rather than child and family support measures. In most situations the idea of packages demands a variety of ways of supporting the child and family so that they can remain together in conditions in which the child’s rights and needs are met. In most of the cases the package will need to change over time as the circumstances and needs of the family and/or child change (Tolfree, 2005; Save the Children UK, 2006a)

An Overview of Alternative forms of child care relevant to constructing packages of care⁸

- 1 Family support** – support provided directly to families in order to prevent separation of the child. This should be the first priority.
- 2 Small group homes** – small groups of children living with a core worker as a permanent substitute parent in a substitute family.
- 3 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.
- 4 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.
- 5 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.
- 6 Foster care (short- and long-term)** – care within a family of one or two children or siblings, long- or short-term, informal or formal.
- 7 Self-selected foster care** – a child or group of children identify alternative carers in their community, and future care is agreed with the potential carer, the children and the agency.
- 8 Sheltered housing** – young people or children live independently with a permanent adult worker living independently on site but available as a mentor for guidance and support.
- 9 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.

⁸ Developed by Neil McMillan and Diane M Swales for Alternative Childcare Training Workshop (November 2003), included in Save the Children (2006b) Applying the Standards: Improving Quality Child Care Provision in East and Central Africa. First Resort Series.

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

11 Adoption – a permanent legal transfer of a child to another family. It is advised that adoption should not be used in emergency situations, as birth families may be found when the emergency has passed.

For further reading see the accompanying paper “Different options in implementing prevention and out-of-home care” (Verweijen-Slannescu, R. & O’Kane, C. 2006) (including country examples, strengths, limits and challenges of particular options) which is produced as part two of an accompanying set of documents.

7.1 Special measures to strengthen family and prevent child abandonment

A significant number of national and international, governmental and non-governmental duty-bearers and stakeholders in the field of child care claim the need of strengthening families in order to support them to cope with difficult situations and in this way to prevent child abandonment. These efforts are based on an understanding that the best place for a child is in a secure, caring and protective family, alongside broader research (Carter, 2005, Save the Children, 2003, Desmond et al, 2002) that have shown that keeping a child in her/his family have long-term benefits for the society (fully integrated and active citizens able to contribute to the development of their communities, prevent unnecessary budget allocation for expensive residential care, etc.)

Under **family strengthening measures** include a range of interventions which support family life and help to diminish the risk of children needing care outside of the family. The spectrum of options in supporting families and children is almost limitless, and the pattern of what is most appropriate varies considerably from one context to another (Save the Children, 2006a). Many of the services provided under the broad headings of ‘community development’, ‘universal services’ or ‘basic services’ may well have a preventive effect although many will not be so labelled (Tolfree, 2005, Save the Children, 2006a). These may include educational provision, anti-discrimination measures, health-oriented programmes, early childhood development and supporting the material needs of the family. Other types of programme may be promoted more specifically in order to enhance parental capacity and to prevent the need for children to be placed in out-of-home care.

The draft **UN Guidelines for the Protection and Alternative Care of Children without Parental Care** states that: Family preservation efforts should aim to empower families with attitudes, skills, capacities and tools to enable them to provide adequately for the protection, care and development of their children. Such efforts should draw on the complementary capacities of the State and civil society, including religious leaders and the media.

They should include:

a. family strengthening approach that may include parenting courses, the promotion of positive parent-child relationships, conflict resolution skills, and opportunities for income generating activities.

b. Support services, including financial assistance and care facilities for parents and children together when necessary, designed to enable particularly disadvantaged and vulnerable families to fulfil their responsibilities to their children. Such services should be directly accessible at community level and actively involve the participation of families as partners.

c. Youth policies aiming at empowering youth to positively face the challenges of everyday life and preparing future parents to make positive decisions with respect to their reproductive health and to fulfil their responsibilities in this respect.

The Report “Children in institutions: prevention and alternative care” prepared by the Working Group on Children at Risk and in Care of the Council of Europe (Strasbourg, 19 May 2004) also present a spectrum of different form of work which could be done to support families.

Programmes run by organisations such as Save the Children or EveryChild to strengthen families’ capacities to better care for their children and prevent their abandonment are run in partnership with the local and national authorities as pilot models which can be scaled up at national level.

7.2 Alternative care models

“There is no ideal solution to the loss of a parent, only better and worse alternatives”⁹

In the context of significant political, economical, cultural diversity, a variety of forms of alternative care have been developed. A range of options should be considered, taking into considering the individual needs of children and determination of their best interests to decide on the most appropriate package of care.

In more stable “traditional” communities, the extended family is likely to be able to provide care for children who have lost their parents, and when that is not possible the local community may find alternative ways of caring for them. Where the extended family is dispersed and/or where the community cohesion is weak (as in many industrialised countries and communities fragmented by conflict or forced migration) the state or NGOs may provide alternative living arrangements for children.

It is widely agreed that three principles should guide decision regarding long-term substitute care for children once in need for such care has been demonstrated (Cantwell, 2005):

- family-based solutions are generally preferable to institutional placement;
- national (domestic) solutions are generally preferable to those involving another country;
- permanent solutions are generally preferable to inherently temporary ones.

Community based models involve members of communities in the prevention of child abandonment or in the process of reintegration of the child into her or his biological family. Community based care options may include: community self-helps groups, community schools, community kindergartens, community based family group homes, community resource centres for families and children in difficult circumstances (including those providing support for children with disabilities and their families). In some cases community based care options are implemented by a government or a NGO which provides continuing revenue support, supervision and monitoring. In others they are more clearly embedded within the community, set up on a self sufficiency basis and supported by local community structures.

7.3 De-institutionalisation process

There is a global concern to redefine the residential care system and to support family based care models, including prevention work with biological families, which is often referred to as the “**de-institutionalisation process**”. Most of the NGOs working in the field of protection and promotion of children’s rights share the belief that residential care should only be used as a last resort, and in such cases must be a short-term solution, aiming to support and accompany the child (and its family, wherever is possible) until a permanent, better alternative is found. Many organisations thus promote and support de-institutionalisation care effort.

De-institutionalisation is essentially the process of moving away from a care system based on large institutions and it is widely regarded as **consisting of three components** (Hope & Homes, 2004):

1. Preventing both unnecessary admissions to and stays in institutions;
2. Finding and developing appropriate alternatives in the community for the housing, treatment, training, education and rehabilitation of children who do not need to be in residential care;
3. Improving the conditions, care and treatment for those who do require public care.

De-institutionalisation is a collection of activities: it is not just the closing down of large institutions. As such, de-institutionalisation is at the heart of developing modern and effective care services for children and families. Managed well it can be both the catalyst and the funding source for improved and more sensitive childcare services. The de-institutionalisation debate and programme must be based on an understanding of the different policy elements involved in providing children’s services. It is not just a matter of closing bigger institutions: prevention, maintaining an appropriate balance of provision and ensuring that all substitute care is of a high standard are also key areas for attention (Hope and Homes, 2004).

⁹ John Williamson in A family is for a lifetime, The Synergy Project for USAID, Washington DC, March 2004

Over the past 15 years the de-institutional care processes in Central and Eastern Europe and the former Soviet Union have been supported by key international and national governmental and non governmental organisations. Mechanisms of support have covered a range of forms, mainly logistical and financial support, but also important legal frameworks (e.g. the Recommendations of the Council of Europe on the rights of children living in residential care.) The improvement of situation of children in residential care alternative was defined as a criteria for admission to European Union (see the cases of Bulgaria and Romania) and special monitoring mechanism were implemented. However, it is important to emphasise that the de-institutionalisation process may further damage children if the transition is too rapid, as observed in Romania (Mulhair et al, 2004) or if the needs of the children are not considered or treated as a priority.

Complementary to the de-institutionalisation process, NGOs show their concern and call for prevention of use of residential forms of care in regions which are very much affected by natural catastrophes (Asian countries affected by Tsunami) or HIV/AIDS epidemics /Sub-Saharan Africa). Forms of family- and community-based care are considered to last longer and be more sustainable and in the same time to answer better the needs of children at risk of separation or abandonment. (ISCA, 2003, Carter, 2005, Cantwell 2005)

7.4 Options in conflict and post-conflict/ natural disaster contexts

After almost 50 years of discussions about the negative impact of residential care and after at least 30 years of promoting family- and community-based models, the solution proposed to protect children during conflict situation and after natural disasters, have highlighted a huge gap between intentions and realities. In particular, they give rise to an array of proposed responses from a range of sources that reflect the real state of contemporary policy and practice, and that therefore underscore overall attitudes towards, and efforts on behalf of, such children (Cantwell 2005).

From the Vietnam "Operation Baby-lift" of the mid-1970s to the Rwandan genocide and the conflict in ex-Yugoslavia, from Hurricane Mitch to the Gujarat and Bam earthquakes, responses have betrayed persistent and serious misunderstanding of, or disregard for, children's rights and needs. They included the widespread establishment of 'orphanages' and, often, the mass displacement of children to another country for temporary or permanent care.

Not unexpectedly, several similar initiatives were mooted in the wake of the tsunami disaster by officials and private bodies alike, including:

- a USA evangelical organisation publicised plans to airlift 300 'orphans' from Banda Aceh to Jakarta with a view to placing them in "a Christian orphanage";
- the Indonesian authorities announcement to construct a "large orphan house" in Banda Aceh and another in Medan if necessary;
- a European Commissioner suggested that families in EU countries would be ready to offer temporary refuge to thousands of children from the affected region.

The big difference this time was that they did not happen:

- the Indonesian Government refused permission for the airlift;
- the Authorities also let it be understood in the end that there would be no new 'orphan house' and that priority would be given to supporting families that had taken in children, making institutional care a last resort;
- the EU proposal was almost immediately withdrawn in the face of strong criticism from organisations such as UNICEF and Save the Children.

Furthermore, within days of the tsunami disaster – just three in the case of the USA – governments of many industrialised countries made official announcements barring their citizens from adopting children from the affected countries, Sri Lanka itself froze inter-country adoptions from the affected region, and the Indonesian Authorities banned children under 16 from leaving the country unless accompanied by a parent (Cantwell, 2005).

The homogeneity and rapidity of these reactions were probably unprecedented. Ostensibly they sufficed to prevent cross-border evacuations. But, in the relative confusion exacerbated by the arrival of scores of private 'agencies' with their own agendas and own funding, they failed to stop

one-off, uncoordinated initiatives to establish the now almost inevitable 'orphanages'. In the last resort, then, the 'de-institutionalisation' approach clearly still has a long way to go in practice (Cantwell, 2005).

There are inter-agency guiding principles on working with unaccompanied and separated children (2004) which have been developed by the inter-agency working group on separated and unaccompanied children, which includes ICRC, UNHCR, UNICEF, IRC, World Vision and Save the Children UK.

General Points for Positive Action (Cantwell, 2005):

Given the wide range of reasons why children are, or are rightly or wrongly deemed to be, in need of out-of-home care, the diverse country situations, and the special concerns stemming from the effect of emergencies and the HIV/AIDS pandemic, it is impossible to set out a single comprehensive agenda. But some general points for positive action can be emphasised:

- Inadequate family support feeds care systems that are more costly than the support would have been: family preservation should be the first requirement of a policy on alternative care.
- Care systems tend to retain the children entrusted to them: family reintegration should be the prime objective of alternative care.
- A full range of care options is required: the simplistic hierarchical consideration of these options – according to which 'family-based' is by definition 'good' and 'residential facilities' are at best 'the last resort', at worst 'bad' – is the wrong basis on which to approach the question of out-of-home care.
- The 'best' option is the one that responds in the most appropriate way to the situation and needs of a given child at a given moment: consequently the option chosen needs to be reviewed as his or her situation and needs evolve.
- Kinship care solutions, including child-headed households, need to be supported as valid care options, but with attention to risks.
- Foster care cannot be expected to bear the burden of de-institutionalisation policies: needless entry in to the care system – particularly where material poverty and marginalisation are the essential causes of relinquishment or removal – is the main problem to be tackled.
- Residential care is not 'institutionalisation' if it responds to the right child at the right time, is conceived as a family-type or small group home, and is directed towards preparing the child for return home or another stable 'non-residential' living environment.

Alongside such promotion of rights-based best practice, however, a clear battle still needs to be fought against the 'institutional' response. This will in some cases require directly influencing government policies, making best use of the arguments that the UNCRC and other documents enable us to muster. But even more important, perhaps, will be enabling the authorities to resist effectively the setting up of 'orphanages' by foreign private groups from countries whose very own experience has clearly shown that they simply do not work...

(Nigel Cantwell - „The challenges of out-of-home care“, in Early Childhood Matters, December 2005, number 105, Bernard van Leer Foundation)

Definitions regarding different concepts related to prevention of abandonment and out-of-home care models can be found in:

- UN Guidelines for the Protection and Alternative Care of Children without Parental Care (Draft – Status at 12.05.2006), Submitted by ISS and UNICEF in collaboration with the NGO Working Group on Children without Parental Care:
http://www.crin.org/docs/WG_Parental_Care_draft_Guidelines_2006.doc
- Manual for the Measurement of Children in Formal Care Indicators, 2006, UNICEF (Draft for consultation – Status at January 2006)
- Save the Children (2005) First Resort Series: Creating Positive Options for Children, Tolfree, D.
- Save the Children (2006b) Applying the Standards: Improving Quality Child Care Provision in east and central Africa, Save the Children UK, First Resort Series:
http://www.savethechildren.org.uk/scuk_cache/scuk/cache/cmsattach/4234_ApplyingTheStandards.pdf
- Website of Better Care Network: <http://www.crin.org/bcn/>

8 Concluding comments – key considerations for SOS Children’s Villages

While building upon SOS Children’s Villages’ existing competencies and ‘a Child’s Right to a Family’ position paper, the analysis offered in this paper may provide insights and new directions for strategic developments by SOS Children’s Villages. Furthermore, additional information that may inform strategic developments concerning: I) methods of identifying the target group; II) intervention strategies of key players; and III) prevention and out of home care options are available in an accompanying set of documents.

Common implications of rights based analysis for organisations working in the out-of-home child-care sector:

- **Scale up prevention and family strengthening work.**
- **Ensure application of quality standards in all aspects of the organisation’s work** (in accordance with principles and articles of the CRC).
- **Need to collect, analyse and monitor data** (at local, national, regional and global levels) concerning which children the organisation works with – disaggregate information in relation to: gender, age, disability, ethnicity, family status, reasons for admission etc).
- **Re-assessment of children within existing care settings to determine if they are any children who could be re-unified with their families with a package of family support.**
- **Re-training of some residential staff as community based mobilisers, family supporters.**
- **Engage with Governments as primary duty bearers and strengthen their role in developing appropriate policies and practices** which ensure access for all children to basic services (health, education and protection), and strengthen the role of families and communities in providing care and protection of all marginalised children.
- **Strengthen advocacy work on root causes of family separation**, including: poverty, discrimination, violence and HIV/AIDS; as well as access to basic services (education, health, protection).
- **Form alliances with other key agencies to strengthen child right constituencies.**
- **Empower children and families to assert their rights.** Empower girls and boys (of different ages and abilities) to participate in all decisions affecting their lives, including policies affecting them.

References

African Charter on the Rights and Welfare of the Child, 1999

Ainsworth, M. and Filmer, D. (2002) Poverty, AIDS and Children's Schooling: A Targetting Dilemma. Working Paper – Education, Child Labour and Returns to School. No. 2885. World Bank.

A world fit for children, Outcome document of the UN Special Session on Children 2002

Anglade, J. M. (2005) How Poverty Separates Children and Parents: A Challenge to Family Continuity and Human Rights. Children without parental care: Qualitative alternatives, Early Childhood Matters, Bernhard van Leer Foundation.

ATD Fourth World (2004) How Poverty Separates Parents and Children: A Challenge to Human Rights.

Bebbington and Miles (1989) The Background of Children who Enter Local Authority Care. British Journal of Social Work, 19, 9.

Bilson, A. and Gotestam, R. (2002) Implementing Standards of Child Protection Services in ECA Countries: Toolkit. World Bank/UNICEF Changing Minds, Policies and Lives Project.

Blackstock, C. and Alderman, J. A. (2005) The Untouchable Guardian: The State and Aboriginal Children in the Child Welfare System in Canada. Children without parental care: Qualitative alternatives, Early Childhood Matters, Bernhard van Leer Foundation.

Bower, C. (2005) 'The case for child-headed households' Children without parental care: Qualitative alternatives, Early Childhood Matters, Bernhard van Leer Foundation

Boyden, J. and Mann, G. (2000) Children's Risk, Resilience and Coping in Extreme Situations. Background paper to the Consultation on Children in Adversity, Oxford 9-12 September 2000.

Browne, K. Hamilton Giachritsis, C., Johnson, R., and Chou, S. (2004) Young Children in Institutional Care in Europe. Children without parental care: Qualitative alternatives, Early Childhood Matters, Bernhard van Leer Foundation.

Browne, K. Hamilton Giachritsis, C., Johnson, R., and Ostergen, M. (2006) The Extent of Young Children in Institutional Care across the European Region: A Cause for Concern? British Medical Journal (in press).

Cantwell, N. (2005) 'The Challenges of Out-of-Home Care'. Children without parental care: Qualitative alternatives, Early Childhood Matters, Bernhard van Leer Foundation.

Carter, R. (2005) Family Matters: a study of institutional childcare in Central and Eastern Europe and the former Soviet Union, EveryChild.

Child Protection Society Zimbabwe (1999). How can we help? Approaches to Community-Based Care: A guide for groups and organisations wishing to assist orphans and other children in distress. <http://www.womenchildrenhiv.org/pdf/p09-of/of-03-05.pdf>

CIDA, 2006, Children in Development - Children's Rights and Protection Policies in Bilateral Donors, International Organizations, and International Financial Institutions

Clark, J. (1993) The Relation between the State and the Voluntary Sector, the Global Development Research Centre, Oct. 1003

Clough, R., Bullock, R. and Ward, A. (2006) What Works in Residential Care. A Review of research evidence and the practical considerations, National Children's Bureau 2006

Commission of the European Communities (2002) Participation of Non-State Actors in the EC Development Policy, Brussels

Commission of the European Communities (2006) Towards an EU Strategy on the Rights of the Child, Brussels 2006

CRC Committee (2005) Recommendations from the CRC Committee on Children without Parental Care following Day of General Discussion

CRIN Newsletter No 18/ March 2005 (2005), Rights Based Programming with Children - an introduction

- Council of Europe, Committee of Ministers (2005) Recommendations Rec(2005)5 of the Committee of Ministers to member states on the rights of children living in residential institutions
- Currah K., Whaites, A. (2003) False Economics: Why AIDS-Affected Countries are a Special Case for Action. Monrovia, California. World Vision International.
- Dakar Framework for Action, Education for all, 2000
- Economic and Social Council Commission on Human Rights (2000), 57th Session, Item 13. Rights of the Child. Report of the Mission of the Special Rapporteur on the Issue of Commercial Sexual Exploitation to the Kingdom of Morocco, 28th February – 3rd March 2000.
- Firelight Foundation, American Jewish World Service, and Bernard van Leer Foundation (2005) The Promise of a Future: Strengthening Family and Community Care for Orphans and Vulnerable Children in Sub-Saharan Africa.
- Gudbrandsson, B (2004) Children in institutions: prevention and alternative care, Working Group on Children at Risk and in Care; Council of Europe, Strasbourg, 2004
- Gudbrandsson, B (2006) Rights of Children at risk and in care, report presented at the Conference “Changes in Parenting: Children Today, Parents tomorrow” in Lisbon, organised by the European Ministers responsible for Family Affairs (16-17/05/06)
- Huber, U. and Gould, B. (2002) Primary School Attendance in Tanzania: How Far is it Affected by Orphanhood? Paper presented at annual conference of British Society for Population Studies. University of Newcastle. September 2002.
- Human Rights Watch (2005) Failing our children: Barriers to the right to education, 2005
- IDS (2003) IDS Policy Briefing, Issue 17 May 2003
- IFCO (2005) Submission for the Day of General Discussion meeting of the UN Committee on the Rights of the Child in Geneva (16/09/06)
- IFCO document: Relevant Expertise of IFCO and completed IFCO Projects
- IFCO Annual Report 2005-2006
- IFCO Proposal for the Improvement of the Care of Children Orphaned or Made Vulnerable by the HIV/AIDS Pandemic.
- ILO (1999) Child Labour Study. Country Report Zambia.
- International Save the Children Alliance (2005) Global Submission by the International Save the Children Alliance to the UN Study on Violence Against Children. 10 Essential Learning Points. Listen and Speak Out Against Sexual Abuse Of Girls and Boys.
- INTRAC (2003), The Implications of Adopting Rights-Based Approaches for Northern NGOs: A preliminary Exploration (by Emma Harris-Curtis)
- ISS (2005) A Global Policy for the Protection of Children Deprived of Parental Care. Submission at UNCRC Day of General Discussion on Children Without Parental Care. 16th September 2005, Geneva.
- ISS & UNICEF (2004) Improving Protection for Children without Parental Care: a Call for International Standards
- ISS & UNICEF (2004b) Care for Children in Emergency Situations: Implications for International Standards
- ISS & UNICEF (2004c) Care for Children Affected by HIV/AIDS/AIDS: the Urgent Need for International Standards
- ISS & UNICEF (2004d) Kinship care: an issue for international standards
- Johnson, R. Browne, K., and Hamilton Giachritsis, C. (2006) Young Children in Institutional Care at Risk of Harm. Trauma, Violence and Abuse, 7 (1): 1-26.
- Katsioloudes M.; (2002); Global Strategic Planning: Cultural Perspectives for Profit and Nonprofit Organisations; Butterworth-Heinemann, Woburn

- Martin, F. and Parry-Williams, J. (2005) *The Right Not to Loose Hope: Children In Conflict with the Law – A Policy Analysis and Examples of Good Practice*. A Contribution to the UN Study on Violence Against Children from the International Save the Children Alliance.
- McCreery, R., Area Representative, Russia and Belarus (2003) UNICEF Statement for Stockholm Conference on Residential Care, 14 May 2003
- Ministry of Local Administration and Social Affairs (MINALOC)[Rwanda](2002). National Policy for Orphans and Other Vulnerable Children in Rwanda.
- Moedlag, C. & O’Kane C. (2006). Accompanying set of documents to Child Rights Situation Analysis: Our Target Group – Towards a Clearer Definition of Vulnerability.
- Moreno, T. and Van Dongen, J. (2005) *Foreward: Children without parental care: Qualitative alternatives*, Early Childhood Matters, Bernhard van Leer Foundation
- O’Kane, C. & Verveijen-Slammescu, R. (2006) Accompanying set of documents to Child Rights Situation Analysis: Intervention strategies of key agencies working with children without parental care
- O’Neill, W. G. (2003) An Introduction to the concept of rights-based approach to development.
- Plan Netherlands (2006). Position Paper 2005 Child Protection.
- Ruxton, S. (2005) The European Children's Network (EURONET), What about us? Children's rights in the European Union: next steps, 200
- Save the Children (2003) *A Last Resort: The Growing Concern about Children in Residential Care*. Save the Children’s Position on Residential Care. Save the Children.
- Save the Children (2004) *Children Having Children*. State of the World’s Mothers. Save the Children US.
- Save the Children (2005) *Raising the Standards: Quality Child Care Provision in east and central Africa*. Save the Children UK
- Save the Children (2005b) *Child Rights Programming, Second Edition*
- Save the Children (2006a) *First Resort Paper, Positive Care Options for Children*, Save the Children UK (Draft by David Tolfree, revised 26.02.2006, published version forthcoming)
- Save the Children (2006b) *Applying the Standards: Improving Quality Child Care Provision in east and central Africa*. Save the Children UK, First Resort Series.
- Save the Children/ the UN Secetariat (2005) *Some Highlights from Children's Participation in the UN Secretary-General's Study on Violence against Children*. Submitted to CRC General Day of Discussion on Children without parental care.
- Save the Children Denmark (2005), *A tool kit on Child Rights Programming* (Edited by Susanne Kirk Chirstensen)
- Skinner et al. (2004). *Defining Orphaned and Vulnerable Children*. Human Sciences Research Council. http://www.hsrcpublishers.co.za/user_uploads/tbIPDF/1946_00_Defining_Orphaned_and_Vulnerable.pdf#search=%22defining%20orphaned%22
- Smart, R. (2003) *Policies for Orphans and Vulnerable Children: A Framework for Moving Ahead*, USAID.
- Smith, T. (2003) *Separated Children in Europe: Policies and Practices in European Member States: A Comparative Analysis*. Separated Children in Europe Programme Save the Children Denmark.
- Social Exclusion Unit (2003) *A Better Education for Children in Care*. London. Social Exclusion Unit, Office of Deputy Prime Minister.
- SOS-Kinderdorf International (2005) *A Child’s Right to a Family: Family-based Child Care: The Experience, Learning and Vision of SOS Children’s Villages*. Position Paper. SOS-Kinderdorf International.
- Stockholm Declaration (2003) Stockholm University, *Children and Residential Care. New Strategies for a New Millennium*. Country Reports 2003. 2nd International Conference, Stockholm, May 12-15, 2003

- Subbarao, K., et al (2001) Social Protection of Africa's Orphans and other Vulnerable Children: Issues of Good Practice Programme Options. Human Development Working Paper Series, Africa Region. World Bank.
- Tobis, D. (1992) The Continuum of Child Welfare Services: Principles and Practices for Central and Eastern Europe. Paper given at the regional seminar for east and central Europe, Sofia. Sept/Oct 1992.
- Tobis, D. (2000) Moving from Residential Institutions to Community Based Social Services in Central and Eastern Europe and the Former Soviet Union, The World Bank 2000
- Tolfree, D. (2003) Community-based care for separated children. Save the Children Sweden.
- Tolfree, D. (2005) Facing the Crisis: Supporting Children through Positive Care Options. Save the Children First Resort Series: Creating Positive Options for Children.
- United Nations Convention on the Rights of the Child <http://www.unicef.org/crc/index.html>
- UN Millennium Development Goals <http://www.un.org/millenniumgoals/>
- UN Guidelines for the Protection and Alternative Care of Children without Parental Care (Draft - Status at 12.05.2006), Submitted by ISS and UNICEF in collaboration with the NGO Working Group on Children without Parental Care
- UNAIDS (2005) AIDS epidemic update.
- UNAIDS/UNICEF/USAID (2004) Children on the Brink: A Joint Report of New Orphan Estimates and a Framework for Action.
- UNAIDS/UNICEF (2005) Children - The missing face of AIDS.
- UNAIDS/WHO (2005): AIDS epidemic update. Geneva.
- UNDP (2005) Human Development report, 2005
- UNICEF Innocenti Digest (1998) Intercountry Adoption, Florence, Italy, 1998
- UNICEF et al (2004) Strategic Framework for the Protection, Care and Support of Orphans and Vulnerable Children Living in a World with HIV/AIDS and AIDs. UN agencies.
- UNICEF (2005) Submission to the Committee on the Rights of the Child Day of General Discussion on "Children without Parental Care" Geneva, 16 September 2005
- UNICEF (2005a) Gender Achievements and Prospects in Education. The Gap Report Part One.
- UNICEF (2005b) The State of the World's Children 2006: Excluded and Invisible.
- UNICEF Innocenti Insight (2003) Children in Institutions: The beginning of the End? The case of Italy, Spain, Argentina, Chile and Uruguay
- UNICEF Innocenti Insight (2005) Children and disability in transition in CEE/CIS and Baltics States, Innocenti Insight.
- UNICEF Innocenti Insight (2005a) Trafficking in Human Beings: Especially Women and Children, in Africa, Innocenti Insight.
- UNICEF Innocenti Insight (2005b) Laying the Foundations for Children's Rights
- UNICEF Innocenti Report Card (2000) Child Poverty in rich nations, Innocenti Insight.
- UNICEF, Mid-term Strategic Plan, 2006-2009
- UNICEF (2006) Child Protection and Children Affected by AIDS: A Companion Paper to the Framework for the Protection, Care and Support of Orphans and Vulnerable Children Living in a World with HIV/AIDS.
- UNHCR (2005) Contribution to the general discussion of the Committee on the Rights of the Child on "Children without parental care "
- Van Reisen, M.& Stefanovic, A. (2004) Lost Kids, lost futures. The European Union's response to Child Trafficking. International Federation Terre des Hommes, Geneva, September, 2004

Verveijen-Slamnescu, R. & O'Kane, C. (2006) Accompanying set of documents to Child Rights Situation Analysis: Different options in implementing prevention work and out-of-home care

Williamson, J. (2000) What Can we do to Make a Difference? Situational Analysis of Children and Families Affected by AIDS. DCOF, USAID.

Williamson (2004a) Institutions are Not the Answer.

Williamson (2004b) A Family for a Lifetime. USAID.

Wilson, M. (1999) 'Take this Child: Why women abandon their infants in Bangladesh', *Journal of Comparative Family Studies*, p.687-702.

World Bank (2002) From early child development to human development - investing in our children ' s future.

World Bank (2005) Children and Youth: A Framework for Action.

World Bank (2005a). The OVC Toolkit for SSA. A toolkit on how to support Orphans and Other Vulnerable Children (OVC) in Sub-Saharan Africa (SSA). www.worldbank.org/ovctoolkit

World Bank/UNICEF (2002) Education and HIV/AIDS/AIDS: Ensuring Education Access for Orphans and Vulnerable Children: A Training Module.

World Vision (2005) Small Voices, Big Concerns; A Child Rights Approach to HIV/AIDS/AIDS

Yuster, A. (2005) Introductory Statement. CRC Committee General Day of Discussion on Children without Parental Care. September 2005.

Appendix

i. Set of Case Studies

The following case studies from key agencies including Save the Children, EveryChild, IFCO, Terre des Hommes (ISS) and SOS Children's Villages are complementing the chapter on main programmes/strategies of key players at global level.

Save the Children Case Example: De-institutional Care Work, Uganda (Tolfree, 2005):

In Uganda in the early 1990s SCUK was invited by the Government to set up a programme to help with the problems of abandoned and neglected children. In subsequent years the combination of a protracted civil war and the rapid onset of HIV/AIDS led to the large expansion of residential homes, most offering appalling conditions. This lent urgency to the need to develop policies and practices to maintain children within their families and communities. SC located staff within the Ministry of Labour and Social Welfare and the following components of the programme emerged:

- The introduction of Babies' Homes and Children's Homes to limit admissions and to allow a system of registration and inspection and the enforcement of standards
- The encouragement of residential care providers to develop community-based responses
- An extensive family-tracing programme to enable institutionalised children to return to their families. Guidelines were produced to facilitate good practice
- An "Open Learning" programme offering training to residential, and later community-based staff
- Following a research study into the social consequences of AIDS, a pilot programme of community-based care was promoted in the District most affected. The programme involved strengthening governmental systems within the District, training and supporting of child volunteer advocates, community sensitisation and child rights training, family tracing and resettlement of children, legal advice and interventions to settle property disputes
- A new act, The Children's Act 1996, was drawn up with the help of SC and promoted laws, rooted in the CRC, to safeguard children in civil and criminal respects. It emphasises parental and community responsibility for children, it facilitates the diversion of children away from the criminal justice system, encourages local resolution to conflict, and emphasises the rights and welfare of children

EveryChild Case Example: Georgia¹⁰

Georgia gained independence in 1991 and underwent a difficult transition in moving away from the Soviet system. Serious economic problems emerged, compounded by civil conflict, large population movements and a big increase in social vulnerability. An elaborate system of institutional care was part of the Soviet legacy, and during the transition period, even more children were admitted, mainly for socio-economic reasons. Georgia signed the CRC in 1994 and the government committed itself to make changes to the national legislation and to make systematic change in the country's child welfare policies.

In 1999 the Ministry of Education and UNICEF invited EveryChild to help the Government to establish and develop community-based alternatives to residential care. EveryChild initiated a Family Support and Foster Care Project, in partnership with UNICEF and the Government. An early step was to carry out research into the status of, and the reasons for admission of children in residential care. The information gathered was used for the planning and implementation of the new pattern of services.

The implementation of the programme began in 2000. Six social workers were recruited and trained in each of three regions of Georgia and given on-going training by international technical advisers. These social workers were then given the responsibility to implement community-based

¹⁰ This case study is included in Tolfree, D. (2005) Facing the Crisis: Supporting Children Through Positive Care Options. First Resort Series. Save the Children.

social services for children and their families. Individual assessments were conducted and care plans established for each child and family. The family support aspect of the programme utilised existing community resources as well as the newly-trained social workers. The project pursued three main alternatives to residential care:

- Reintegration of children with their birth families
- Preventing the need for admission to residential care
- The development of fostering for children who could not return to their families

The pilot project resulted in 82 children being prevented from entering residential care, 45 were reintegrated with their families and 28 were placed in foster care. In 2002 the project was successfully handed over to the Government. During the following three years EveryChild supported the Government to replicate the model in other parts of the country, while at the same time expanding its scope, for example by reaching children of different ages and those with special needs.

IFCO Case Example: De-institutional Care and ‘Twinning Light Project’, Romania:

IFCO has contributed in the EU Phare Project for the de-institutionalisation in Romania. In Romania much has changed since 1990. The country was able to close down 164 large old type institutions and to establish a network of foster families (maternal assistants) to provide a home and a family to over 15.000 children.

Training of the foster carers, of the social workers and the child protection agencies was necessary. IFCO contributed in 2004 to a series of conferences for the child protection committees. In 12 three days training sessions they listened to presentations and worked on case studies to improve their knowledge and skills to face the many problems of families in this country.

As part of the Twinning Light Project in 2005, IFCO has work closely for an extended period of time with the Romanian Government, serving the purpose of de-institutionalisation and implementation of a new child legislation that gives generous room of manoeuvre for setting up foster care in Romania (referred to as “maternal assistance” in Romania). The final objective of the Twinning Light Project is to propose an Action Plan, aiming at supporting the development and diversification of the Maternal Assistance Network (later referred to as MAN), therefore favouring the sustainability and long-term implementation of the recent changes in Romania’s Child Protection System, in accordance with the Principles of the United Nations Convention for the Rights of the Child (UNCRC) and the European Convention on Human’s Rights. IFCO contribute to this with trainings for the foster care workers and foster care trainers. Furthermore, the sharing of the Best Practices regarding Child Protection and the special case of out-of-home care, in Romania and among selected European Countries, is being considered through use of ‘social action methodology’.

The spirit of this research was to create the best possible conditions for the elaboration of an action plan regarding the MAN, in terms of adequacy and quality. The IFCO-lead team deliberately chose a “social action methodology”, based on consultation of and cooperation with all stakeholders involved. This methodological choice enables us to actively involve, in a participative manner all the actors (from every categories) related to the Maternal Assistant Network: professionals (Social Assistants (SA), Managers of General Directions for Social Assistance and Child Protection (or GDASCP), workers and Maternal Assistants (or AMP), whether from GDASCP or Non-Governmental Organisations (NGOs), beneficiaries (children, young people, birth parents), and partners (from NGOs, educative system, medical field, institutions...). This involvement, particularly during the stakeholders meetings and the site visits, creates ground for a mobilisation of resources, in terms of meetings among peers, encounters between stakeholders from diverse institutions and professions, discussions, and in-depth reflection. The experts, both experienced in research and/or child protection issues, are therefore expected to create the opportunity for exchanges and reflection, collect and echo the multiple.

ISS Case Example: The experience of Terre des Hommes – Brazil¹¹: From inter-country adoption to the prevention of abandonment

ISS/IRC has invited Terre des Hommes-Brazil to give an account of its experience of the full circle it has experienced in the field of the defence of the child's right to live in a family.

The work of Terre des Hommes-Brazil began in 1982, in Rio de Janeiro, with a programme of inter-country adoption of children and adolescents living in institutions. At that time, the Code for Minors was still in force and one could count in fact more than 15,000 children housed in institutions in just Rio de Janeiro alone. During the initial period, our work consisted of encouraging and making possible **inter-country adoptions of children with special needs**, who for a variety of reasons were not adopted by Brazilians, and interracial adoptions. Thus, in 10 years, we enabled the inter-country adoption of 110 children and adolescents.

In 1987, we realised that inter-country adoption was not an adequate solution compared with the number of children in institutions. So, by encouraging, particularly, **older age and interracial adoptions at the national level**, we would make possible a major cultural and social evolution, where the child would be the main beneficiary. In fact, a child needs to live in a family and not in an institution. This work, begun in 1987, was consolidated during the 90s by the founding of the National Movement of Support Groups for adoption, which today mobilises more than 90 groups developing, from north to south of Brazil, domestic adoption projects and activities for the defence of the right to live in a family. From 1997 to 2002, about 5,000 children and adolescents were placed in Brazilian families (at least one child per month, per group).

The follow-up to our reflections led us in 1992 to collaboration with the families of origin, **through the reintegration of institutionalised children and adolescents within their own family**. Our great challenge is, therefore, to believe that families only place their children in institutions because they do not have the means to assume responsibility for them, and that we can work with them to relieve their hardship. We defend, in fact, the idea that institutionalisation of children should only be recommended when all other efforts to keep them in their own family or the extended family have failed. The staff of *Terre des Hommes-Brazil*, from outside the family, have thus developed a means of intervention by using techniques based on bringing out the value of the family's competence. In cases where keeping the child in the family of origin is impossible, the process of withdrawal from the family's authority must be broached in such a way that the child can, as quickly as possible, integrate with a substitute family. At present we have an average of 750 children per year in our care, with the aim of allowing them, in time, to return to their family of origin.

With the same end in view, we have more recently been drawn to activities for the **prevention of abandonment** by supporting the work of grass roots organisations, still maintaining the goal of promoting the culture of family reinforcement and rapprochement. Since December 2001 a family support centre exists with a view to contributing to prevention and assisting the situation of low-income family social risks, betting on citizenship, the generation of income and the reinforcement of self-esteem. Between 2001 and 2002, a total of 5,172 children and adolescents and 2,234 families benefited from this support.

Moreover, since January 1997, a **project on foster families** has been run, aimed at interrupting the cycle of family violence by action for the protection of children and adolescents from 0 to 14 years of age. A psychosocial follow-up report on the family and the child, within his/her family or their reception in a substitute family, was prepared. From 1997 to 2002, some 1,343 children and adolescents and 519 families have benefited from this activity.

From inter-country adoption right through to primary prevention, such has been the circuit covered by *Terre des hommes-Brazil*, which began with the last of options (inter-country adoption) and continued right up to the first of them (prevention of the break-up of the family). **The number of children in need of inter-country adoption has been radically reduced if one compares it with the number of children institutionalised who retain links with their family of origin.** We believe that the social worker must begin with prevention and work through the process to adoption, going through the various possibilities: from the return to the family of origin to the search for

¹¹ Case study included in ISS (2005) A Global Policy for the Protection of Children Deprived of Parental Care. Submission at UNCRC Day of General Discussion on Children Without Parental Care. 16th September 2005, Geneva.

alternatives in the extended family, to the placement in a foster family, or in domestic adoption and, finally, as a last resort, in inter-country adoption once all the other solutions have been exhausted. One must always make the effort to provide a response that is adapted to the development of the situation of each child that is brought to our organisation. That response must be adjusted to the situation, rapidly and effectively. Claudia Cabral, claudiacabral@terradoshomens.org.br, March 2004

SOS-Kinderdorf International: Case example of a family strengthening programme in Nelspruit, South Africa :

SOS Children's Villages in Africa has made a strategic effort to address the HIV/AIDS orphan crisis by establishing family strengthening programmes at each location (= a total of 128 locations) where the organization is already/or will be providing care through an SOS Children's Village facility by 2008. These programmes specifically target children whose parents are living with a life threatening illness, children who have lost their parents and children living in orphan households. Currently, close to 30,000 children are assisted through about 80 programmes.

The family strengthening programme in Nelspruit started in 2002, together with the establishment of the SOS Children's Village there. This programme is a joined initiative between SOS Children's Villages and the respective home-based care organizations in the targeted communities of Tekwane (Siyasitana home-based care group) and Kanyamazane (Sakhasive home-based care group). The home-based care organisations have already been working within the community, they were well accepted and have already build a network of community volunteers who do home visits to care for sick adults, train family members to care for the sick, do counselling and promote primary health care. Through their involvement in the community they come across the plight of many vulnerable children however due to limited resources they are often not able to care for these children adequately. Through the cooperation, the community volunteers were capacitated to not only care for the sick family members but to extent their services to the children as well.

A 'Community Steering Committee', which has been established in both communities, holds overall responsibility in the running of the programme. This Committee not just comprises of the two partner organizations but also key government departments and other key stakeholders (e.g. the local clinics) that hold an interest as well as a responsibility for the well-being of children in the respective community.

The programmes overall objective is to empower families and communities to effectively protect and care for their children. The assistance for families is rendered through a family development planning process that works with families towards self-reliance. Through this process, each family's needs and priorities, their potential to achieve self-reliance in these areas and the support they require to do so, are carefully considered and brought into focus. A family is considered to be self-reliant when it has:

1. Access to essential services for the child (basic survival needs , age-appropriate child care and education, required child psycho-social support)
2. Ability of care-giver to provide childcare (required childcare knowledge and skills, addressed own health needs, planned for the long-term care of the children)
3. Sufficient family resources (meeting financial and material needs now and in the future)

In light of this, the programme provides food supplements, primary health care services, educational scholarships, study supervision and extra tuition classes, housing renovations, HIV/AIDS awareness workshops, 'positive living' support groups, various trainings for income generating activities, individual as well as communal food gardens, business skills training to the participating children and families.

SOS-Kinderdorf International: Case example of a family strengthening programme in Bolivia, Latin America: Community homes to prevent child abandonment

SOS Children's Villages in Bolivia has been running intervention programmes in communities surrounding a children's village facility to prevent children from losing the care of their family and thus significantly reducing the number of children in need for out-of-home residential care, over the last fifteen years. Participating families are organized in family committees which provide an organizational structure and platform to address social challenges and define solutions jointly. The different family committees of each community are given guidance, advice and training for their self-organization process by experienced community development facilitators that work from the

base of an SOS Social Centre. To respond to the specific need for age-appropriate education and care for children below the age of 6, whilst at the same time allowing their mothers to pursue income-generating activities, Community Homes are being set-up. A Community Home functions in a family house in the community, where around 15 children are taken care of by two community mothers, who are elected through the family committee and specifically trained for that task.

"I am a single mother and I have three children. I leave them at the Community Home from Monday to Friday. My oldest daughter has become more affectionate and she has learnt to play with her brothers and sisters. Seeing them I know it's important for them to be in Community Homes from when they are very young." (mother participating in the programme in El Alto)

"I came into the SOS Social Centre in Cochabamba in 2001 and they assigned me to Family Committee No.1. When I attended the second committee meeting I decided to take charge of a group of 15 mothers. For 4 years I was a leader in the community organization and participation area, I was trained in children's and women's rights and I went to all of the workshops on empowering women. After a while I was given the opportunity to become a facilitator. The facilitator's responsibility is huge because by doing a good assessment of the leaders of each committee, you can measure how the families participating in the programme are getting on. We are a link between the SOS Social Centre team and the community. For the families to get the correct information and understand the programme depends on us, the facilitators. The satisfaction I get from being facilitator is being recognized by the families as part of this change process that they go through to improve their quality of life and themselves. Another satisfaction is that, as part of the staff, we are constantly being trained to do our job better." (Facilitator of programme in Cochabamba)

ii. SOS Children's Villages in external literature

References of SOS Children's Villages as a family-like care model

One suggested solution was 'children's villages', whereby a family-like structure is built in the form of a village, centred on four basic principles: mother, siblings, house and village. Each child has a 'mother', who is extensively trained and lives in the house as the main carer and substitute for the child's natural parents. However, the enclosed villages separate children from their natural surroundings and culture, and it seems likely that they are expensive to establish and maintain. (Carter, 2005 p.25)

SOS Children's Villages is one alternative to large institution with the aim of providing a family-like childhood to children without parental care. (Gudbrandsson, 2006, p.54)

When children are placed in families, it must be insured that this constitutes a better alternative to placement in a institution. Placement in living groups and Children's Villages must also be taken into consideration as further possibilities. (Gudbrandsson, 2006, p.63)

References of SOS Children's Villages as a residential care / orphanages model

Orphanages, children's villages, or other group residential facilities may seem a logical response to growing orphan populations. In fact, this approach can impede the development of national solutions for orphans and other vulnerable children. Such institutions may be appealing because they can provide food, clothing, and education, but they generally fail to meet young people's emotional and psychological needs. (UNAIDS, USAID, UNICEF, 2004, p.19)

Some organisations, like SOS Children's Villages, specialise in residential provision. (...) The number of children they look after in residential care is five times the number of children looked after in residential care by the local authorities in England. Recent moves by SOS to explore community-based support options are encouraging. (Save the Children Alliance 2003, p.16)

While building more orphanages, children's villages or other group residential facilities would seem a possible response to caring for the growing number of orphans, this strategy is not a viable solution. Care provided in institutional settings often fails to meet the developmental and long-term needs of children. Children need more than good physical care. They need the affection, attention, security and social connections that families and communities can provide. Countries with long-term experience with institutional care for children have seen the problems that emerge as children grow into young adults and have difficulty reintegrating into society. (...) Orphanages are more expensive to maintain than providing direct assistance to existing family and community structures. Institutional care would be prohibitively expensive for the vast majority of countries. (...) The magnitude of orphans due to HIV/AIDS is so large that an institutional response - besides not being in the best interests of the child - will never be the answer. Orphanages for more than 14 million orphans simply cannot be built and sustained. (UNICEF et al, 2004, p.37)

When you get to SOS Children's Village you are not in Malawi, you are somewhere else. Still trying to see how these orphanages can fit the realities of the country. SOS provides care from the cradle to grave - they send you to university, find you a job. They are responding to criticism by starting some "side-shows," but it a lot of pressure is needed to change this 'religion.' (Meeting on African Children Without Family Care, Windhoek, 30 November 2002, Final Report p. 14)

(...)SOS Children's Village Lilongwe (Malawi) is part of an international movement of orphanages worldwide. Because SOS is a comparatively well-endowed NGO, the institution seems to be providing a comfortable environment for children - indeed, often too comfortable compared with local standards. (...) As for their unit costs, as revealed in the next section, orphanages and children's villages are the most expensive form of care. (Reaching Out to Africa's Orphans: A Framework for Public Action", Kalanidhi Subbarao and Diane Coury, The World Bank 2004, p. 65)

The concept of a children's village was developed by the nongovernmental organization SOS-Kinderdorf International. Data released by the organization reveal that maintaining a Malawian child in an SOS children's village may cost up to \$2,400 a year. The high cost reflects in part the exceptionally comfortable environment in which children are raised compared with that surrounding the majority of Malawian children (Bhargava and Bigombe 2002). The cost, then, could definitely be reduced by adapting standards to those of the nearby communities. (Reaching Out to Africa's Orphans: A Framework for Public Action", Kalanidhi Subbarao and Diane Coury, The World Bank 2004, p. 77-78)

iii. UN CRC (summary)

United Nations Convention on the Rights of the Child
Unofficial summary of main provisions

The aim of the CRC is to set standards for the defence of children against the neglect and abuse they face to varying degrees in all countries every day. It is careful to allow for the different cultural, political and material realities among states. The most important consideration is the best interest of the child. The rights set out in the CRC can be broadly grouped in three sections:

Provision: the right to possess receive or have access to certain things or services (e.g. a name and a nationality, health care, education, rest and play and care for disabled and orphans).

Protection: the right to be shielded from harmful acts and practices (e.g. separation from parents, engagement in warfare, commercial or sexual exploitation and physical and mental abuse).

Participation: The child's right to be heard on decisions affecting his or her life. As abilities progress, the child should have increasing opportunities to take part in the activities of society, as a preparation for adult life (e.g. freedom of speech and opinion, culture, religion and language).

Preamble: The Preamble sets the tone in which the 54 articles of the Convention will be interpreted. The major UN texts which precede it and which have a direct bearing on children are mentioned, as is the importance of the family for the harmonious development of the child, the importance of special safeguards and care, including appropriate legal protection, before as well as after birth, and the importance of the traditions and cultural values of each people for the child's development.

Definition of a child Article 1 A child is recognized as a person under 18, unless national laws recognize the age of majority earlier.

Non-discrimination Article 2 All rights apply to all children without exception. It is the State's obligation to protect children from any form of discrimination and to take positive action to promote their rights.

Best interests of the child Article 3 All actions concerning the child shall take full account of his or her best interests. The State shall provide the child with adequate care when parents, or others charged with that responsibility, fail to do so.

Implementation of rights Article 4 The State must do all it can to implement the rights contained in the Convention.

Parental guidance and the child's evolving capacities

Article 5 The State must respect the rights and responsibilities of parents and the extended family to provide guidance for the child which is appropriate to his or her evolving capacities.

Survival and development Article 6 Every child has the inherent right to life, and the State has an obligation to ensure the child's survival and development.

Name and nationality Article 7 The child has the right to a name at birth. The child also has the right to acquire a nationality, and as far as possible, to know his or her parents and be cared for by them.

Preservation of identity Article 8 The State has an obligation to protect, and if necessary, re-establish basic aspects of the child's identity. This includes name, nationality, and family ties.

Separation from parents Article 9 The child has a right to live with his or her parents unless this is deemed to be incompatible with the child's best interests. The child also has the right to maintain contact with both parents if separated from one or both.

Family reunification Article 10 Children and their parents have the right to leave any country and to enter their own for the purpose of reunion or the maintenance of the child-parent relationship.

Illicit transfer and non-return Article 11 The State has an obligation to prevent and remedy the kidnapping or retention of children abroad by a parent or third party.

The child's opinion Article 12 The child has the right to

express his or her opinion freely and to have that opinion taken into account in any matter or procedure affecting the child.

Freedom of expression Article 13 The child has the right to express his or her views, obtain information, and make ideas or information known, regardless of frontiers.

Freedom of thought, conscience, and religion Article

14 The State shall respect the child's right to freedom of thought, conscience, and religion, subject to appropriate parental guidance.

Freedom of association Article 15 Children have a right to meet with others, and to join or form associations.

Protection of privacy Article 16 Children have the right to protection from interference with privacy, family, home, and correspondence, and from libel or slander.

Access to appropriate information Article 17 The State shall ensure the accessibility to children of information and material from a diversity of sources, and it shall encourage the mass media to disseminate information which is of social or cultural benefit to the child, and take steps to protect him or her from harmful materials.

Parental responsibilities Article 18 Parents have joint primary responsibility for raising the child, and the State shall support them in this. The State shall provide appropriate assistance to parents in child-raising.

Protection from abuse and neglect Article 19 The State shall protect the child from all forms of maltreatment by parents or others responsible for the care of the child and establish appropriate social programmes for the prevention of abuse and the treatment of victims.

Protection of a child without a family Article 20 The State is obliged to provide special protection for a child deprived of the family environment and to ensure that appropriate alternative family care or institutional placement is available in such cases. Efforts to meet this obligation shall pay due regard to the child's cultural background.

Adoption Article 21 In countries where adoption is recognized and/or allowed, it shall only be carried out in the best interests of the child, and then only with the authorization of competent authorities, and safeguards for the child.

Refugee children Article 22 Special protection shall be

granted to a refugee child or to a child seeking refugee status. It is the State's obligation to cooperate with competent organizations which provide such protection and assistance.

Disabled children Article 23 A disabled child has the right to special care, education and training to help him or her enjoy a decent life in dignity and achieve the greatest degree of self-reliance and social integration possible.

Health and health services Article 24 The child has the right to the highest standard of health and medical care attainable. States shall place special emphasis on the provision of primary and preventable health care, public health education and the reduction of infant mortality. They shall encourage international cooperation in this regard and strive to see that no child is deprived of access to effective health services.

Periodic review of placement Article 25 A child who is placed by the State for reasons of care, protection or treatment is entitled to have that placement evaluated regularly.

Social security Article 26 The child has the right to benefit from social security including social insurance.

Standard of living Article 27 Every child has the right to a standard of living adequate for his or her physical, mental, spiritual, moral, and social development. Parents have the primary responsibility to ensure that the child has an adequate standard of living. The State's duty is to ensure that this responsibility can be fulfilled, and is. State responsibility can include material assistance to parents and their children.

Education Article 28 The child has a right to education, and the State's duty is to ensure that primary education is free and compulsory, to encourage different forms of secondary education accessible to every child and to make higher education to all on the basis of capacity. School discipline shall be consistent with the child's rights and dignity. The State shall engage in international co-operation to implement this right.

Aims of education Article 29 Education shall aim at developing the child's personality, talents, and mental and physical abilities to the fullest extent. Education shall prepare the child for an active adult life in a free society and shall foster respect for the child's parents, his or her own cultural identity, language and values, and for the cultural background and values of others.

Children of minorities or indigenous populations Article 30 Children of minority communities and indigenous populations have the right to enjoy their own culture and to practice their own religion and language.

Leisure, recreation and cultural activities Article 31 The child has the right to leisure, play, and participation in cultural and artistic activities.

Child labour Article 32 The child has the right to be protected from work that threatens his or her health, education or development. The State shall set minimum ages for employment and regulate working conditions.

Drug abuse Article 33 Children have a right to protection from the use of narcotic and psychotropic drugs, and from being involved in their production or distribution.

Sexual exploitation Article 34 The State shall protect children from sexual exploitation and abuse, including prostitution and involvement in pornography.

Sale, trafficking and abduction Article 35 It is the State's obligation to make every effort to prevent the sale, trafficking and abduction of children.

Other forms of exploitation Article 36 The child has the right to protection from all forms of exploitation prejudicial to any aspect of the child's welfare not

covered in articles 32, 33, 34 and 35.

Torture and deprivation of liberty Article 37 No child shall be subjected to torture, cruel treatment or punishment, unlawful arrest or deprivation of liberty. Both capital punishment and life imprisonment without the possibility of release are prohibited for offences committed by persons below 18 years. Any child deprived of liberty shall be separated from adults unless it is considered in the child's best interests not to do so. A child who is detained shall have legal and other assistance as well as contact with the family.

Armed conflicts Article 38 States Parties shall take all feasible measures to ensure that children under 15 years of age have no direct part in hostilities. No child below 15 shall be recruited into the armed forces. States shall also ensure the protection and care of children who are affected by armed conflict as described in relevant international law.

Rehabilitative care Article 39 The State has an obligation to ensure that child victims of armed conflicts, torture, neglect, maltreatment or exploitation receive appropriate treatment for their recovery and social reintegration.

Administration of juvenile justice Article 40 A child in conflict with the law has the right to treatment which promotes the child's dignity and worth, takes the child's age into account, and aims at his or her reintegration into society. The child is entitled to basic guarantees as well as legal or other assistance for his or her defense. Judicial proceedings and institutional placements shall be avoided whenever possible.

Respect for higher standards Article 41 Wherever standards set in applicable national and international law relevant to the rights of the child are higher than those in this Convention, the higher standard shall always apply.

Implementation and entry into force Articles 42-54 The provisions of articles 42-54 notably foresee: (I) The State's obligation to make the rights contained in this convention widely known to both adults and children. (ii) The setting up of a Committee on the Rights of the Child composed of ten experts, which will consider reports that States Parties to the Convention are to submit two years after ratification and every five years thereafter. The Convention enters into force - and the Committee would therefore be set up - once 20 countries have ratified it. (iii) States Parties are to make their reports widely available to the general public. (iv) The Committee may propose that special studies be undertaken on specific issues relating to the rights of the child, and may make its evaluations known to each State Party concerned as well as to the UN General Assembly. (v) In order to "foster the effective implementation of the Convention and to encourage international co-operation" the specialized agencies of the UN - such as the International Labour Organization (ILO), World Health Organization (WHO), and United Nations Educational, Scientific and Cultural Organization (UNESCO) - and UNICEF would be able to attend the meetings of the Committee. Together with any other body recognized as 'competent', including non-governmental organizations (NGO's), in consultative status with the UN and UN organs such as the United Nations High Commissioner for Refugees (UNHCR), they can submit pertinent information to the Committee and be asked to advise on the optimal implementation of the Convention.

Source: UNICEF