

# 2021 Day of General Discussion

## *Children's Rights and Alternative Care*

This document is being submitted by the undersigned international group of clinicians and researchers with expertise in the disciplines of social work, child development, clinical psychology, psychiatry, pediatrics, and neurology.

### **Child's Right to a Family**

The UN Committee on the Rights of Persons with Disabilities (CRPD) set for children the core right to live independently, be included in the community, and grow up in a family as a binding standard of international law. The UN Committee on the Rights of Children (CRC) in Article 20 states 'placement in suitable institutions for the care of children' is allowable when children cannot live with their parents and alternate care is necessary. It has been controversial whether the right to a family should be a standard of international law when no government has yet fully eliminated all forms of institutions or residential care. As a standard, it can be a goal to strive for; not necessarily one that must be currently universally met. The protection against discrimination is accepted as a fundamental standard of international law, even though there is no society in the world without discrimination.<sup>1</sup>

### **Rationale for Eliminating Large and Small Scale Institutional Care**

As reviewed in the recently published *Lancet* Commission on Institutionalization and Desinstitutionalization of Children,<sup>2</sup> the research overwhelmingly demonstrates that institutional care is detrimental to children's development, especially with regard to physical growth, brain development (assessed head circumference), cognition, and attention. Significant but smaller negative effects are also found on children's socioemotional development and physical health. The extant data also demonstrates that deinstitutionalization, leaving institutions for foster or family care, is associated with significant recovery in some domains (e.g., physical growth, including head circumference, and cognition), but not others (e.g., attention), with greater length of time in institutions associated with increased risk of adverse outcomes and diminished chance of recovery.<sup>2</sup>

Institutions have been defined as any publicly or privately managed and staffed collective living arrangement for children that is not family based – and includes smaller scale group homes.<sup>2,3</sup> Many of these smaller scale group homes have similar problems as their larger predecessors, including: high child-to-caregiver ratios, multiple rotating shifts to cover 24/7 care, and large turn-over rates of underpaid and insufficiently trained staff.<sup>2</sup> In addition, some of the smaller scale group homes that were created to replace large-scale grossly depriving institutions have been cited for human rights abuses,<sup>4</sup> and have also been linked to negative social, behavioral, and physical health outcomes for youth. Institutional care of children, in its many forms and structures, with long or short stays, increases children's risk for physical and sexual abuse, multiple forms of exploitation, and a host of negative outcomes.<sup>5,6</sup>

### **Time Frame for Eliminating Institutional Care**

There has been a call for the progressive elimination of institutional care for children, but no time frame for achieving this goal has yet been set. As in a four year period from 2012 through 2016 Rwanda successfully placed 70% (2338/3323) of children living in institutions with their biological families or into foster care,<sup>2</sup> a twenty year period should be sufficient to achieve this goal worldwide. Current residential and group homes can be transformed into community centers offering outpatient assessment, case management, physical therapy, mental health treatment, and other needed services; short-term specialized acute treatment programs; or transformed into family intervention centers where parents can stay with their children while they receive substance abuse treatment or other necessary services and supports.<sup>5</sup>

## Exceptions at Times of National Emergency, Social Disruption, and War

There will be times of national emergency, social disruption, and war, including situations where there are large numbers of internally-displaced or unaccompanied migrant children in need of alternate care. International law has mechanisms for requiring that national emergencies be recognized, allowing certain human rights standards to be temporarily suspended.<sup>1</sup> Residential care of children may be necessary under these circumstances. Standards should be established for the residential care to be time limited, adequately resourced to meet the physical and emotional needs of the children, with mechanisms in place to help facilitate communication between children and kin not located at the site, and staff should work to achieve family-based placements for the youth as soon as possible.

## Elimination of Institutional Care Requires an Investment in Family Support Preventive Services and Specialized Community-Based Services

The United States child welfare system is far from perfect, but in the last twenty years it has decreased the number of children in out-of-home care by 25% from 567,000 to 423,997 youth. During this same time frame the number of children who required out-of-home care who were living in institutions and group homes decreased over 90% from 102,782 to 10,154 youth.<sup>7</sup> These improvements have been accomplished through the dissemination of evidence-based family support services, parent substance abuse treatment, and models of therapeutic foster care, including specialized programs for youth with psychiatric problems, developmental disabilities, and medical complexity (e.g., technology dependent youth). Resources to enhance placement of youth with kin and adoption incentives, and wide-scale implementation of trauma-informed care practices have further facilitated the goals of maintaining family-based placements and promoting resilience and recovery for youth. The California Evidence-Based Clearinghouse for Child Welfare website (<https://www.cebc4cw.org>) provides an excellent catalogue of evidence-based practices for children and families involved with the child welfare system. Professor Kaufman, the lead author of this statement, is willing to serve as a consultant to the Committee, Governments, and child serving agencies, and a liaison to colleagues with other relevant areas of expertise to facilitate the goal of achieving children's right to a family worldwide. With will and commitment, proper resourcing, critical international and national partnerships, and proper data to monitor progress, the practice of institutionalization of children could be eradicated by the end of 2042.

### Citations

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