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Promotion and protection of the rights of children: promotion and protection of the rights of children

Status of the Convention on the Rights of the Child

Report of the Secretary-General

Summary

The present report focuses on the implementation of the priority themes of the resolutions entitled “Rights of the child” adopted by the General Assembly at its sixty-ninth to seventy-third sessions. It includes a review of the advancements and remaining challenges relating to international and national efforts on protecting children from discrimination and overcoming inequalities, the right to education, migrant and displaced children and ending violence against children.

* A/74/150.



I. Introduction

1. In its resolution [73/155](#), the General Assembly requested the Secretary-General to submit to it at its seventy-fourth session a comprehensive report on the rights of the child containing information on the status of the Convention on the Rights of the Child, with a focus on children without parental care.¹ Children and societies suffer severe negative consequences from the breakdown of parental care. Families may become separated for many reasons, such as armed conflict, natural disasters, migration, discrimination on the basis of disability and other factors, including nationality, ethnicity, gender, sexual orientation, immigration status, poverty and other socioeconomic reasons, and policies and practices that do not support families, do not promote family unity and fail to prevent unnecessary separation. Children without parental care are more likely than their peers to experience human rights violations, such as exclusion, violence, abuse, neglect and exploitation.

2. While comprehensive and reliable data on children without parental care² remain largely unavailable, there is growing recognition of the harmful impact of the problem, and Member States are increasingly investing in care reform to support families, prevent family separation and reduce the use of residential alternative care. Still, many challenges persist for implementing a comprehensive human rights-based approach to addressing the situation of children without parental care. The heightened vulnerability of such children is further demonstrated by the lack of reference to them and the challenges they face in the 2030 Agenda for Sustainable Development and the absence of associated targets.

II. Status of and reporting on the Convention

3. As at 1 July 2019, all Member States, with the exception of the United States of America, had ratified or acceded to the Convention on the Rights of the Child; 168 States had ratified or acceded to the Optional Protocol on the involvement of children in armed conflict; 176 States had ratified or acceded to the Optional Protocol on the sale of children, child prostitution and child pornography; and 44 States had ratified or acceded to the Optional Protocol on a communications procedure.

4. During the reporting period, the Committee on the Rights of the Child held its seventy-ninth to eighty-first sessions. As at 1 July 2019, the Committee had received initial reports from all but two States parties and had reviewed all but one of the initial reports submitted. In total, the Committee had received 551 reports submitted pursuant to article 44 of the Convention; 117 reports and 2 periodic reports under the Optional Protocol on the involvement of children in armed conflict; and 116 reports and 2 periodic reports under the Optional Protocol on the sale of children, child prostitution and child pornography.

¹ Unless otherwise or specifically indicated, the information presented in the present report reflects the findings of research conducted by the United Nations Children's Fund (UNICEF) for the report, including consultations with Member States, United Nations system entities and international and local civil society organizations during 2018 and 2019. More information is available from UNICEF about these consultations, upon request.

² For information on the definition of children without parental care, see the Guidelines for the Alternative Care of Children (General Assembly resolution [64/142](#), annex, para. 29).

III. Legal and normative framework related to children without parental care

A. Progress at the international and regional levels

5. The international legal framework establishes rights that are relevant for the protection of children without parental care in instruments such as the Universal Declaration of Human Rights (arts. 12 and 16), the International Covenant on Civil and Political Rights (arts. 17, 23 and 24) and the International Covenant on Economic, Social and Cultural Rights (art. 10). In the Convention on the Rights of the Child, there is the recognition that a child should grow up in a family environment (preamble), that the parents or legal guardians should have the primary responsibility for the upbringing and development of the child (art. 18) and that States parties have the responsibility to provide special protection and assistance to a child who is temporarily or permanently deprived of his or her family environment and to ensure alternative care for such a child (art. 20).

6. In the Committee's general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin, attention is drawn to the vulnerable situation of such children, the multifaceted challenges that States face in ensuring that such children can fully claim and enjoy their rights are outlined and guidance on the protection, care and proper treatment of unaccompanied and separated children is provided. In addition, in its general comment No. 21 (2017) on children in street situations and its general comment No. 9 (2006) on the rights of children with disabilities, the Committee addresses concerns relating to such groups of children, including those without parental care.

7. The Convention on the Rights of Persons with Disabilities also contains provisions on children with disabilities without parental care (art. 23), which are of particular importance given that children with disabilities are often overrepresented in all forms of institutional care. The need to support families of children with disabilities and to prevent the separation of children from their parents on the basis of a disability of either the child or one or both of the parents is set out in the Convention. Furthermore, under the Convention, all States parties are required to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children, and their right to live independently and be included in the community is established (art. 19). In its general comment No. 5 (2017) on living independently and being included in the community, the Committee on the Rights of Persons with Disabilities highlighted the right of a child with disabilities to grow up in a family and expressed concerns about the dangers of placing children with disabilities in residential care, including large and small group homes.

8. At its fortieth session, the Human Rights Council adopted resolution [40/14](#), entitled "Rights of the child: empowering children with disabilities for the enjoyment of their human rights, including through inclusive education", in which it reaffirmed a child's right to grow up in a family environment and called for the promotion of families' and caregivers' capacities to provide the child with care and a safe environment. The Council encouraged States to replace the institutionalization of children with disabilities with appropriate measures to support family and community-based services and, where the immediate family is unable to care for a child, to undertake efforts to provide alternative care within the wider family or in a family setting within the community.

9. In the New York Declaration for Refugees and Migrants, adopted by the General Assembly in its resolution [71/1](#), Member States committed to addressing the special

needs of all people in vulnerable situations who are travelling within large movements of refugees and migrants, including children, especially those who were unaccompanied or separated from their families. Member States further committed to complying with their obligations to provide basic health care, education, psychosocial services and a nurturing environment to such children.

10. In the New York Declaration, Member States affirmed that the detention of migrant and refugee children was seldom, if ever, in the best interests of the child and committed to working towards ending the practice and promoting community-based care arrangements. As expressed in joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration and joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, the detention of children on the basis of their migratory status or that of their parents is never in their best interests and constitutes a violation of their rights; it is also affirmed that child and family immigration detention should be prohibited by law and its abolishment ensured in policy and practice.

11. In 2017, the Working Group on Arbitrary Detention released its revised deliberation No. 5 on deprivation of liberty of migrants, in which it stipulated that the detention of children because of their parents' migration status is a violation of the rights of the child. In its related issue brief, the Office of the United Nations High Commissioner for Refugees stated that children should never be detained for immigration-related purposes, irrespective of their migratory status or that of their parents.³

12. Following the adoption of the New York Declaration, Member States endorsed two global compacts on migration and refugees in 2018. Through the Global Compact for Safe, Orderly and Regular Migration, Member States committed to providing support at all stages of migration to unaccompanied and separated children, to establishing specialized procedures to mitigate risks for unaccompanied and separated children and to enabling migrants, especially unaccompanied or separated migrant children, to communicate with their families without delay.

13. Through the global compact on refugees, Member States recognized that addressing the specific needs of children, including those who are unaccompanied or separated, requires additional resources and targeted assistance. Member States also confirmed that they and other stakeholders would contribute resources and expertise for the establishment of child-sensitive procedures and mechanisms for identification, screening and referral of unaccompanied and separated children.

14. Joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child and joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child provide authoritative guidance on legislative, policy and other appropriate measures that States should take to ensure full compliance with their obligations to fully protect the rights of children in the context of international migration, including their

³ United Nations High Commissioner for Refugees, *UNHCR's position regarding the detention of refugee and migrant children in the migration context*, 2017.

obligation to protect the child's right to a family environment. That includes refraining from actions that could result in family separation or other arbitrary interference in the right to family life and taking positive measures to maintain the integrity of the family, including the reunion of separated family members.

15. It is stated in the African Charter on the Rights and Welfare of the Child that every child is entitled to the enjoyment of parental care and that no child is to be separated from his or her parents against his or her will, except when a judicial authority determines that it is in the best interests of the child. States are called upon to assist parents and others responsible for the child in the performance of child-rearing. In Africa's Agenda for Children 2040, it is stipulated that by 2020 all States should have studied and developed legislation and policies for children in need of alternative care or special support.

16. In 2009, the General Assembly welcomed the Guidelines for the Alternative Care of Children, in which desirable orientations were set out for policy and practice with the intention of enhancing the implementation of the Convention and of relevant provisions of other international instruments regarding the protection and well-being of children deprived of parental care or at risk thereof, in particular on all forms of formal alternative care.⁴ The central role of families in the care of children is reiterated in the Guidelines, as well as the need for efforts to be primarily directed at ensuring that children are able to remain in or return to the care of their parents, or when appropriate, other close family members (General Assembly resolution 64/142, annex, para. 3). States should ensure that families have the support necessary to fulfil their caregiving role in order to prevent separation from the family (*ibid.*, para. 9), and the use of residential care should be limited to cases where such a setting is specifically appropriate, necessary and constructive for the individual child concerned and in its best interests (*ibid.*, para. 21). It is also stated in the Guidelines that providers and settings of formal alternative care must be deemed necessary and appropriate for each individual case based on a determination of the best interests of the child. It is important to note the normative developments brought about by the Convention on the Rights of Persons with Disabilities and the jurisprudence of the Committee on the Rights of Persons with Disabilities.⁵

17. Similarly, the Common European Guidelines on the Transition from Institutional to Community-based Care, published in 2012, and the companion toolkit provide practical advice about how to make a sustained transition from institutional care to family-based and community-based care.

18. Addressing the situation of children who are separated from parents or caregivers during emergencies and building on the widely endorsed Inter-Agency Guiding Principles on Unaccompanied and Separated Children, issued in 2004, the Inter-agency Working Group on Unaccompanied and Separated Children and the Alliance for Child Protection in Humanitarian Action launched the *Field Handbook on Unaccompanied and Separated Children* in 2017. It is compatible with other current inter-agency normative tools, in particular the Minimum Standards for Child Protection in Humanitarian Action. In 2017, the Inter-agency Working Group also published a toolkit on unaccompanied and separated children.

⁴ The key role of informal care for many children is also recognized in the Guidelines.

⁵ The Committee on the Rights of Persons with Disabilities recommends that States parties ensure the alternative care of children with disabilities in family settings and end their institutionalization, even as a measure of last resort, including within small group homes and small residential facilities. The Committee also recommends that, in the meantime, States parties ensure the human rights-based monitoring of all remaining residential centres for children with disabilities.

19. Other important efforts at the international and regional levels include the Better Care Network, a network of organizations working to improve the situation of children without adequate family care, and the Care to Practice initiative, an online collaborative network that provides support to practitioners in Eastern and Southern Africa.

B. Progress at the national level

20. National efforts tend to be focused on developing alternative care options to reduce the number of children living in large-scale institutions. Over the past decade, a growing number of countries across all regions have developed and adopted standards for the provision of alternative care, including minimum standards and guidelines for residential, foster and kinship care. In 2018, the United Nations Children's Fund (UNICEF) supported 106 countries in strengthening care reform; many of the countries reported varying but improving levels of progress. Fewer than a quarter of those countries reported having comprehensive alternative care policies and services in place.⁶

21. A number of countries have taken steps to strengthen national laws and strategies to protect children without parental care and have adopted care reform strategies that are focused on prevention, deinstitutionalization and the diversification of family-based care options. Among others, countries in Asia, Europe, Latin America and the Pacific have advanced national laws and strategies on children without parental care. Some countries (Italy, Kenya and the United Kingdom of Great Britain and Northern Ireland) and regional organizations, such as the European Union, have increased budget allocations to support children without parental care.

IV. Programmatic advances for children without parental care

A. Generating improved evidence and data

22. Accurate and reliable data about the numbers and situations of children without parental care are essential for informing national child protection and care systems and for guiding investments, policy decisions and monitoring systems related to reform processes. Data are also needed to promote evidence-based advocacy, planning and service provision. Without reliable and comprehensive data, duty bearers are unaware of the challenges and unable to uphold the rights and meet the needs of children without parental care, creating deeper and more pervasive marginalization and deprivations for such vulnerable children. Yet data remain sparse, fragmented, uneven, often unreliable and extremely difficult to collect owing to a lack of capacity, the proliferation of unregistered institutions, a lack of indicators and other reasons. In 2017, UNICEF estimated that at least 2.7 million children were in residential care worldwide, with the actual number likely to be higher.⁷

23. Many States, United Nations system entities, non-governmental organizations (NGOs) and others across the globe recognize the importance of generating data and are working to improve the availability of data. In that regard, UNICEF is developing a standard protocol and companion tool for conducting national mapping of all residential care facilities, enumerating the children living in them and collecting data on their well-being.⁸ In 2017, tables on the living arrangements of children without

⁶ UNICEF, *Goal Area 3, Global Annual Results Report 2018*.

⁷ Nicole Petrowski, Claudia Cappa and Peter Gross, "Estimating the number of children in formal alternative care: challenges and results", *Child Abuse and Neglect*, vol. 70, 2017.

⁸ *Ibid.*

parental care were first included in the multiple indicator cluster survey, a global household survey programme that allows countries to collect data on a wide set of indicators. Furthermore, the UNICEF/Washington Group module on child functioning is an important tool to disaggregate data by disability.

24. Several recent publications are aimed at taking stock of the available data related to children without parental care, as well as at documenting the severe and negative impact on children resulting from the lack of parental care, including an overview of the availability and coverage of administrative data and records of children living in alternative care across all regions of the world.⁹ SOS Children's Villages International found that children without parental care were more likely than their peers to experience rights violations and that the breakdown of parental care generates financial costs for both children and societies.¹⁰ The Center on the Developing Child at Harvard University provides scientific evidence that healthy development of the young human brain may be disrupted if adults do not reciprocate to their infant in an appropriate way, creating subsequent learning, behaviour and health impairments.¹¹ The immediate and long-term physical, social and emotional harm caused by family separation, combined with the inappropriate use of alternative care, in particular in large-scale institutions, is also well documented.¹²

B. Preventing unnecessary family separation

25. Contrary to popular assumptions, the vast majority of children living without parental care have families, including at least one parent alive or other relatives.¹³ Recognizing that reality and the well-documented adverse impacts of family separation on children, many countries are working to implement international standards, prevent the institutionalization of children and reunify children who have been separated from their families.¹⁴

26. Efforts to prevent and end the unnecessary separation of families take various forms across both development and humanitarian contexts, including the promotion of family preservation techniques, the use of non-custodial, community-based alternatives to detention that allow children to remain with family members or guardians and the tracing and reunification of unaccompanied and separated children. Gatekeeping, the process of referring children and families to appropriate services and care options with the aim of limiting inappropriate placements in alternative care, is also central to preventing unnecessary family separation, promoting family-based alternative care options and limiting the use of residential care and institutional settings.¹⁵

27. Amendments to national laws and improved strategies on alternative care are contributing to progress towards the protection of children without parental care,

⁹ Ibid.

¹⁰ SOS Children's Villages International, *The care effect: why no child should grow up alone*, 2017.

¹¹ Center on the Developing Child, *From best practices to breakthrough impacts: a science-based approach to building a more promising future for young children and families*, 2016.

¹² See, for example: Kevin Browne and others, "Overuse of institutional care for children in Europe", *British Medical Journal*, vol. 332 (2006); Marinus H. van IJzendoorn, Maartje P. C. M. Luijk and Femmie Juffer, "IQ of children growing up in children's homes: a meta-analysis on IQ delays in orphanages", *Merrill-Palmer Quarterly*, vol. 54, No. 3 (2008).

¹³ UNICEF, *Making decisions for the better care of children: the role of gatekeeping in strengthening family-based care and reforming alternative care systems*, 2015.

¹⁴ Nicole Petrowski, Claudia Cappa and Peter Gross (2017).

¹⁵ For information on the definition of gatekeeping, see: Centre for Excellence for Looked After Children in Scotland, *Moving Forward: Implementing the 'Guidelines for the Alternative Care of Children'*, 2012.

including through deinstitutionalization efforts. Several countries have adopted legislation and national strategies aimed at ending the institutionalization of children. For instance, a national strategy to protect children's rights was established in Czechia to strengthen gatekeeping mechanisms and prevent family separation. In some cases, deinstitutionalization efforts are part of more comprehensive, multipronged childcare reforms that address prevention, parenting support, public awareness-raising and other aspects.

28. Efforts towards improving gatekeeping within formal childcare systems are also under way. Some Governments have prioritized gatekeeping by clarifying lines of responsibility for oversight and coordination, encouraging cross-sectoral collaboration and establishing multisectoral, community-based or judicial mechanisms.

29. Other countries are implementing family preservation techniques. In Europe, Bulgaria, Estonia, Poland, the Republic of Moldova and Romania have invested in preventative family support services. In several countries, agencies provide cash transfers combined with social family services to support at-risk families. In Honduras, personnel of the Directorate for Children, Youth and Family receive training on the prevention of family separation.

30. In some instances, States and partners are working towards reintegrating children in residential care back into their families as part of a broader process of deinstitutionalization and care reform.¹⁶ In other cases, States such as Kenya and Mexico are using alternatives to detention for children who come into conflict with the law to help to prevent unnecessary family separation. Local organizations worldwide are also increasingly focused on preventing unnecessary separation, keeping vulnerable families together and family reunification.

31. In emergency and post-conflict contexts, the prevention of unnecessary family separation often takes the form of family tracing and the reunification of unaccompanied and separated children and children formerly associated with armed forces and armed groups. The training manual on rehabilitating and reintegrating child victims of recruitment and exploitation by terrorist and violent extremist groups, issued by the United Nations Office on Drugs and Crime, provides guidance on family reunification and tracing for that population. In 2017, UNICEF reintegrated more than 13,000 children formerly associated with armed forces and armed groups from 17 countries and identified and registered more than 113,000 unaccompanied and separated children in 43 countries.¹⁷

32. Recent research has identified several factors that tend to have a positive influence on rates of family reunification for unaccompanied and separated children, such as effective coordination between United Nations system entities, NGOs and Governments, engaging with communities, systems building, effective information management and adequate sustained funding.¹⁸

C. Developing family-based alternative care options and implementing care reform

33. National Governments, United Nations system entities, civil society and other child protection actors are increasingly developing and supporting family-based alternative care options for children in need, such as kinship care, foster care or other

¹⁶ UNICEF, *Making decisions for the better care of children: the role of gatekeeping in strengthening family-based care and reforming alternative care systems*, 2015.

¹⁷ UNICEF, *Goal Area 3, Global Annual Results Report 2018*.

¹⁸ Katharine Williamson and others, *The impact of protection interventions on unaccompanied and separated children: a systematic review*, Humanitarian Evidence Programme (Oxford, 2017).

forms of family-based care. Implementing care reform to increase the quality of care in alternative care settings is also a priority for Governments in many settings. It may involve legislative and policy reform and implementation, investment in community-based services and family-based alternatives, monitoring schemes, as well as training programmes, stipends or other support for caregivers.

34. Some examples of legislative reform include the Children Act 2075 of Nepal (2018) and the National Alternative Care Policy of Sri Lanka (2019). Australia has developed national standards for out-of-home care, and the European Union has increased resource allocations to support care reform efforts.

D. Establishing review and monitoring mechanisms

35. A number of countries are piloting and implementing monitoring and review mechanisms to provide oversight of services for children without parental care, such as by establishing internal or external monitoring units or oversight bodies, tracking tools, surveys, databases, indicators and complaint mechanisms. For example, national actors in Colombia, Costa Rica, Thailand and Ukraine have begun to make use of the Tracking Progress Initiative, a free, web-based tracking tool developed in 2017 to enable national actors to determine the extent to which they are effectively implementing the guidelines. Armenia has established a child rights protection unit within the ombudsman's office, and the Malawi Human Rights Commission, an independent human rights body, completed monitoring of children in residential care in 2014 and 2017.

E. Emerging areas of progress

Preventing orphanage “voluntourism”

36. Recent awareness-raising campaigns have sought to highlight the potential harm to children stemming from a wave of short-term, unqualified staff, volunteers and interns in orphanages around the world, known as orphanage “voluntourism”. In 2018, Australia launched two campaigns to discourage the practice among Australians and barred eligibility for groups sponsoring orphanage tourism from receiving grants from Australian Aid. The NGO Better Care Network Netherlands has run interactive multimedia campaigns targeting young people, individuals, schools and universities to raise awareness about the negative impact of orphanage “voluntourism” and has worked with companies, schools and universities to discourage them from offering volunteer opportunities in orphanages.

Protecting unaccompanied and separated children on the move

37. Unaccompanied and separated children who are on the move within their home countries or across borders are often more vulnerable to violence, abuse and exploitation than children with parental care.¹⁹ Children can become separated from parents or caregivers during rapid- or slow-onset emergencies resulting from natural disasters, armed conflict or other situations.²⁰ There is some indication that the scale of separation may be greater in the context of armed conflict than in natural disasters.²¹

¹⁹ UNICEF, *A child is a child: protecting children on the move from violence, abuse and exploitation*, 2017.

²⁰ Inter-agency Working Group on Unaccompanied and Separated Children, *Field Handbook on Unaccompanied and Separated Children* (2017).

²¹ Katharine Williamson and others (2017).

38. At least 300,000 unaccompanied and separated children moving across borders were registered in 80 countries during 2015 and 2016, a near five-fold increase from 2010 and 2011.²² As that figure captures only the number of children moving across borders, the actual number of children on the move is likely to be significantly higher.²³ While many children on the move continue to face dire circumstances, a few notable initiatives strive to increase their protection.

39. In Europe, where almost 200,000 unaccompanied migrant children have sought asylum since the surge in arrivals of refugees and migrants in 2015, the International Organization for Migration and its partners developed the Fostering Across Borders project,²⁴ which seeks to expand the quality of family-based care for unaccompanied migrant children in Austria, Belgium, Greece, Luxembourg, Poland and the United Kingdom. In Germany, which received the highest number of asylum applications in 2016, including nearly 36,000 applications by unaccompanied and separated children, reception procedures for children without parental care upon arrival mandate the placement of children in suitable care, including small group homes and kinship or foster care.²⁵

40. Efforts by the Economic Community of West African States and the West Africa Network for the Protection of Children, comprising Governments, civil society organizations and individuals, promote coordination among national child protection systems to support unaccompanied and separated children who are in transit.²⁶

V. Ongoing challenges to care reform

A. Challenges for generating data and evidence

41. Country-level data regarding children without parental care often do not exist or are of poor quality. Many countries do not have functional systems for producing accurate figures on the number of children living in all types of alternative care, and official records often capture only a small fraction of the actual number of children living in such care.

42. The scarcity of data is due in part to limited investments, a lack of political will and competing demands. In cases in which national data collection systems exist, different definitions and a lack of centralized compilation systems may lead to differing estimates within the same country.²⁷ Weak data can be the result of poor data quality assurance systems, inadequate funding and a lack of collaboration across sectors.²⁸ Weak data also result from a lack of international standards for data collection, including with regard to registering unaccompanied or separated children at points of entry in destination countries.²⁹ The presence of unregistered facilities in

²² UNICEF, *A child is a child: protecting children on the move from violence, abuse and exploitation*, 2017.

²³ Ibid.

²⁴ Unpublished data from the Eurostat Asylum and Managed Migration database, cited with permission in: UNICEF, *A child is a child: protecting children on the move from violence, abuse and exploitation*, 2017.

²⁵ UNHCR, UNICEF and International Organization for Migration (IOM), “Refugee and migrant children in Europe: overview of trends” (2017).

²⁶ Economic Community of West African States (ECOWAS), *ECOWAS Support Procedures and Standards for the Protection and Reintegration of Vulnerable Children on the Move and Young Migrants*, 2016.

²⁷ Nicole Petrowski, Claudia Cappa and Peter Gross (2017).

²⁸ Emily Delap, *Scaling down: reducing, reshaping and improving residential care around the world*, EveryChild, 2011.

²⁹ UNICEF, *A child is a child: protecting children on the move from violence, abuse and*

many contexts is also a complicating factor for data collection on children in residential care. In some cases, Governments may be unable to implement effective data collection owing to weak infrastructure and poor record-keeping practices.

43. As a result of weak or non-existent data collection efforts, Member States, United Nations system entities and civil society organizations report a wide-ranging list of data gaps that currently exist with regard to children without parental care. Gaps include a lack of data on children living in faith-based institutions, kinship care, foster care, supervised, independent living and other settings, on children who are separated or unaccompanied, on children who move on from alternative care settings after turning 18 and on children in street situations.

B. Challenges for deinstitutionalization and developing family-based care options

44. Structural and institutional barriers that inhibit progress towards preventing family separation pose a major challenge to care reform efforts and lead to avoidable cases of children entering care systems. Family preservation and support programmes targeting poverty reduction and social development are essential to avoiding unnecessary separation. Yet duty bearers often fail to focus on prevention measures and to clearly articulate or address the root causes of family separation, such as poverty and other socioeconomic factors, a lack of access to education, including inclusive education, adequate health care, discrimination and social stigma. Rather, they tend to be focused foremost on interventions and care options that take place after separation has already occurred. Weak gatekeeping practices in many contexts further exacerbate the problem. Family preservation efforts that target other causes of separation, such as discrimination and negative stereotypes against children with disabilities, are also essential for avoiding the unnecessary separation of families.

45. While national Governments and partners across the world have made notable progress in recent years towards the deinstitutionalization of children and the expansion of family-based alternative care options, globally, the use of residential placements surpasses that of family-based placements, and many complex and persistent challenges remain.³⁰ The lack of relevant laws, policies and a systems approach to care reform in many countries leads to fragmented efforts that fail to create overarching or clear plans, budgets, time frames or the strategic prioritization of care reform activities. A lack of political will, whole-of-government approaches, commitment and leadership by national Governments regarding deinstitutionalization and overall care reform are also significant challenges. In some cases, that leads to insufficient investments, delays and failure to finalize and approve draft plans or policies. A lack of regulation over registration, monitoring and other aspects of alternative care provision is an additional barrier to comprehensive care reform efforts.

46. Limited knowledge among government officials, decision makers and the public about the harm caused to children by unnecessary separation from their families and the profound negative effect on a child's physical, cognitive and social-emotional development as a result of institutional care is a key obstacle to care reform efforts. In some societies, inadequate public awareness and outdated or false perceptions about the presumed benefits of institutional care remain pervasive. For instance, in some contexts, some segments of the population erroneously believe that residential care and intercountry adoption are the best or only options for vulnerable children to

exploitation, 2017.

³⁰ SOS Children's Villages International, *Towards the right care for children: orientations for reforming alternative care systems, Africa, Asia, Latin America* (Luxembourg, 2017).

receive appropriate care.³¹ In other instances, societies tend to disregard the importance of family-based care or rely on orphanages or so-called “boarding schools” to provide children with education. In some contexts, facilities actively recruit children from their families and are not subject to gatekeeping.³²

47. The weak capacity of care providers and related personnel also inhibits progress towards the deinstitutionalization of children. For example, some social service workers do not have the required skills or training to undertake adequate case management and effective gatekeeping; guidelines are not relevant or appropriate for the local context; ratios of children requiring services and available service providers are uneven; and coordination between local organizations and national authorities is weak. In some settings, corruption occurs, such as bribes or payoffs for personal gain. In addition, many kinship care providers do not have adequate financial support or resources to properly care for children in their custody.

48. Multiple weaknesses relating to current standards and practice of care also undermine care reform efforts. For example, violence and abuse against children, as well as neglect and exploitation in care settings, including the risk of human trafficking, sexual exploitation and child labour, persist in some contexts. The lack of regulation, oversight, monitoring and reporting requirements also hampers reform efforts and can lead to negative outcomes for children.

49. United Nations system entities, Governments and civil society organizations describe additional factors in current practice that can lead authorities to make decisions that are not in the best interests of the child or can put a child at increased risk of harm. For example, that may include improper and rushed deinstitutionalization, poor coordination and management across government ministries, a lack of quality control owing to weak inspection standards and monitoring practices, poor enforcement and implementation of relevant laws and policies, a lack of capacity in the social service workforce, unmanageable workloads for caseworkers, a lack of procedures for ensuring individualized care, a lack of models demonstrating successful standards of practice, a lack of participation by children in decision-making regarding their own care placement, a lack of gradual preparation of adolescents for eventual insertion into communities and a lack of emphasis on family reunification and reintegration.

C. Challenges related to allocation of adequate human and financial resources to care reform

50. In general, data about budgeting and resources for care reform are limited or non-existent. Some Member States, United Nations system entities and civil society organizations indicate that public funding for care reform efforts is inadequate across diverse country contexts, including for data collection, research, programming, including prevention efforts, and overall care reform processes across sectors. That also means that budgetary support for family support programmes, such as cash transfers and parenting programmes, community-based services and the development of family-based and community-based care options, including those designed to support children and families with disabilities, regularly fall short.

51. As a result, coordination and oversight functions are still underresourced in many countries, making it difficult for lead agencies to enforce regulations and sustain

³¹ For more information on intercountry adoption see: www.unicef.org/media/intercountry-adoption.

³² SOS Children’s Villages International, *Towards the right care for children: orientations for reforming alternative care systems, Africa, Asia, Latin America* (Luxembourg, 2017).

needed intersectoral coordination for effective gatekeeping.³³ Underresourcing has also meant that the implementation of national care reform plans has not progressed in many contexts.³⁴

52. In some cases, private funding, in particular from individual donors or faith-based organizations, is available to support efforts to protect and provide services to children without parental care. Yet, according to several international NGOs, such funding is typically directed to institutional care programmes rather than family-based care or other care reform initiatives. Data depicting the extent of global support for institutional care from institutional or private donors are not readily available.

D. Challenges in care provision for vulnerable children

53. Some children, such as children with disabilities, children in child-headed households, children in street situations, separated children, children on the move and children in detention, are particularly at risk of being separated from their families and face unique and complex challenges when they do not have parental care. In some cases, discrimination leads directly to the placement of certain children in care settings. For example, in some contexts that includes children with disabilities, children born out of wedlock, children from ethnic minorities, indigenous children, children with HIV/AIDS and children living in child-headed households.³⁵ Some children leave their homes because of violence, abuse, exploitation and neglect that may stem from their parents' substance abuse and mental health problems. Impoverished children who do not have access to education and health care may also face an increased risk of placement in residential care settings. In most cases, children in such situations are not able to freely express their views or participate in decision-making processes relating to their care arrangements, despite such actions being essential to assess the best interests of the child.³⁶

54. Children with disabilities are at increased risk of abandonment and institutionalization and are often overrepresented in residential care, where they are also at a heightened risk of violence, abuse and neglect. The mortality rate for children with disabilities in institutional care is 100 times higher than for other children.³⁷ Some children with disabilities in institutional care face nutritional deficiencies because of feeding difficulties, increased care burdens, insufficient resources to meet their needs and other reasons. The lack of inclusive services for children with disabilities is a key factor leading to the overrepresentation of children with disabilities in institutional care settings.

55. Several Member States report that children with disabilities have not benefited from deinstitutionalization processes at the same rate as other children without parental care. That is partly caused by challenges related to placing children with disabilities in family-based and community-based care settings; such challenges may arise as a result of stigma, discrimination and limited options for community support and services. Some children with disabilities suffer from "transinstitutionalization" due to moving from one institution to another, usually to smaller facilities, including group homes, as a result of poorly conceived or implemented deinstitutionalization processes. That can lead to negative outcomes for children, who are unable to

³³ UNICEF, *Making decisions for the better care of children: the role of gatekeeping in strengthening family-based care and reforming alternative care systems*, 2015.

³⁴ Ibid.

³⁵ SOS Children's Villages International, *Towards the right care for children: orientations for reforming alternative care systems, Africa, Asia, Latin America* (Luxembourg, 2017).

³⁶ Ibid.

³⁷ Lumos, *Ending the institutionalisation of children globally: the time is now* (London, 2013).

establish emotional attachments or achieve educational or other developmental progress owing to a lack of care stability. Some States report that the prevention of family separation for families with children with disabilities is weak or non-existent.

56. Children from child-headed households often display resilience and a sense of responsibility, yet are frequently disadvantaged, marginalized and discriminated against as a direct result of their lack of having a parent or adult caregiver. They tend to have a shortage of resources and suffer from behavioural and emotional problems. Child-headed households have resulted from the global AIDS crisis, as well as from multidimensional poverty and social disempowerment and from children becoming separated from their parents or caregivers while on the move.³⁸

57. Unaccompanied and separated children may become separated from parents or caregivers for many reasons. Some Governments do not focus on preventing the separation of families, while others may actively devise and implement family separation policies, in particular relating to efforts to control immigration. That is done despite the well-documented serious harm caused to children by family separations, such as experiencing a sense of intense fear and helplessness and resorting to coping mechanisms that are focused exclusively on the preservation of life at the expense of all peripheral learning and relationships.³⁹ On account of increased vulnerability, unaccompanied and separated children also face risks of trafficking, exploitation, going missing and other violations of their rights.⁴⁰

58. Children who are on the move and crossing borders are frequently separated from their families and held in detention centres, where they face preventable obstacles that are created by policies, practices, behaviours and attitudes.⁴¹ According to UNICEF, at least 100 countries detain children for immigration reasons, despite negative impacts of detention on children's development and the lack of evidence that child detention serves as a successful immigration control strategy.⁴²

59. The detention of children can have a profound, devastating effect on their physical, emotional and psychological development, regardless of the conditions in which they are held, and even when they are detained with their families or for a short period of time.⁴³ Children in detention, in particular when held without their families, are at risk of experiencing others forms of harm, such as sexual and gender-based violence,⁴⁴ and are at risk of suffering depression, anxiety and symptoms consistent with post-traumatic stress disorder, such as insomnia, nightmares and bedwetting.⁴⁵

³⁸ Jace Pillay, "Problematising child-headed households: the need for children's participation in early childhood interventions", *South African Journal of Childhood Education*, vol. 6, No. 1 (2016); Eucharia Gomba, "Child-headed households in rural Zimbabwe: perceptions of Shona orphaned children", PhD dissertation, University of the Incarnate Word, Harare, 2018.

³⁹ Laura C. N. Wood, "Impact of punitive immigration policies, parent-child separation and child detention on mental health and development of children", *BMJ Paediatrics Open*, vol. 2, No. 1 (2018); Bruce Perry and Maia Szalavitz, *Born for love: why empathy is essential and endangered* (New York, Harper Collins, 2011); Office of the United Nations High Commissioner for Human Rights, "UN experts to US: release migrant children from detention and stop using them to deter irregular migration", press release, 22 June 2018.

⁴⁰ Länsstyrelsen Stockholm, *Lost in migration: a report on missing unaccompanied minors in Sweden*, 2016; Missing Children Europe, *Missing unaccompanied migrant children*.

⁴¹ UNICEF, *Beyond borders 2017: how to make the global compacts on migration and refugees work for uprooted children*, 2017.

⁴² *Ibid.*; Laura C. N. Wood (2018).

⁴³ UNHCR, *Beyond detention: a global strategy to support governments to end the detention of asylum-seekers and refugees*, 2014.

⁴⁴ UNHCR, *UNHCR's position regarding the detention of refugee and migrant children in the migration context*, 2017.

⁴⁵ *Ibid.*; Alice Farmer, "The impact of immigration detention on children", *Forced Migration Review*, vol. 44 (2013).

60. Several paediatric associations, including the International Society for Social Pediatrics and Child Health, the American Academy of Pediatrics and the Canadian Paediatric Society, have recently condemned the systematic separation of immigrant families in response to the increased separation and detention of children crossing into the United States across its border with Mexico. In other contexts, States have revoked the nationality of people alleged to be foreign terrorist fighters and have repatriated their children without their primary caregivers, who may be held in detention.

61. Even when authorities do not place migrant children without parental care in detention, such children are at increased risk of abuse, exploitation, neglect or physical or psychological harm during travel and when they arrive at their destination.⁴⁶ As millions of uprooted families have fled their homes in recent years to escape conflict, persecution and poverty in countries such as Afghanistan, Iraq, Somalia and the Syrian Arab Republic, many of the children who arrive in Europe without parents or caregivers face such increased protection risks.⁴⁷

VI. Conclusions and recommendations

62. States should fully implement their international legal obligations, including by strengthening national legislation and policies, to protect the rights of children without parental care, prioritize the primary role of the family in protecting children and providing care and ensure that all decisions are taken on the basis of the best interests of the child. That involves a wide range of actions, including but not limited to developing national legislation to support families in their caregiving role, prevent the unnecessary separation of children from their families and promote swift family tracing and reintegration in cases in which separation has already occurred. States should also develop and effectively implement international standards for the protection of children at risk of family separation, guidelines for alternative care, cross-border child protection frameworks and universal and inclusive civil registration and identity systems to register all children from birth.

63. States should take action to improve data collection, information management and reporting systems related to children without parental care in order to close existing data gaps, develop global and national baselines and invest in quality, accessible, timely and reliable disaggregated data. That should be done through capacity-building, financial support and technical assistance for the relevant entities. A key aspect is ensuring that national authorities maintain comprehensive and up-to-date records and track longitudinal data to measure progress over time. States should ensure that quality data guide coherent and evidence-based policymaking.

64. States should address the root causes of the separation of children from their families or the delayed reintegration of separated children with their families or caregivers. That requires tackling social norms that contribute to family separation, increasing the focus on the impact of poverty and social exclusion on family life and increasing support for programmes that help children to remain with their families and in the community and that help prevent discrimination and negative stereotypes about children with disabilities, institutionalization, child poverty, violence, exploitation, abuse and neglect. It

⁴⁶ UNICEF and IOM, *Harrowing journeys: children and youth on the move across the Mediterranean Sea, at risk of trafficking and exploitation*, 2017.

⁴⁷ UNHCR, UNICEF and IOM, "Refugee and migrant children in Europe: overview of trends" (2017).

also requires the promotion of inclusive community-based services, such as inclusive education for children with disabilities and others. It may also include family strengthening, by allocating financial support to enable parents to take care of their children, parenting programmes, access to health care and psychosocial support for children and families and inclusive social protection services.

65. States should strengthen child welfare and child protection systems and improve care reform efforts. For example, efforts should include increased multisectoral collaboration between child welfare and health, education, justice and other sectors, active coordination among all relevant authorities, improved cross-border systems and improved capacity-building and training programmes for relevant stakeholders.

66. States should end the institutionalization of children and prioritize investments in child protection services and social services to support families and communities in order to prevent the separation of children from their families. If the immediate family is unable to care for the child, alternative care within the wider family should be prioritized, as appropriate. Failing that, the use of quality family-based alternative care options, including kinship and foster care within family-based settings, should be prioritized. That involves taking proactive steps to phase out institutionalization through systematic and adequately funded national deinstitutionalization plans. Such plans should entail structural reforms, awareness-raising efforts, prohibitions on new institutions and the prioritization of family preservation techniques, including well-coordinated and context-specific gatekeeping mechanisms that are consistent with international norms.

67. States should strengthen regulation, including the licensing, oversight and monitoring of alternative care settings and kinship care settings. That includes the systematic enforcement of national registration, inspection and quality assurance policies. Increased oversight is also needed to monitor the quality of care within alternative care settings. States should systematically introduce safe, child-friendly, accessible and confidential complaint mechanisms in all alternative care settings to ensure that children are able to report violence, abuse or other concerns.

68. Increasing the focus on the quality of alternative care for children should be a priority for all States and other relevant actors. On the most fundamental level, that requires ending all human rights violations against children in alternative care and ensuring swift accountability for those who perpetrate violations, such as abuse, exploitation, sexual violence, trafficking, recruitment by armed forces and armed groups, discriminatory practices and other forms of harm against children. It also means improved continuity of care for children in alternative care arrangements, the provision of diverse services, including education, early childhood development services, nutritional support, psychosocial support and services, support for those soon to leave care and others. States should also enact and enforce legislation to prevent the trafficking and exploitation of children in care facilities and establish periodic reviews of the placement of children in all alternative care settings.

69. States and other actors should establish and strengthen mechanisms to ensure the full and meaningful participation of children and young people without parental care in decisions about policy reform and about their own care arrangements. That includes decisions related to the child's individual care arrangements. Engaging children and young people in a child-friendly manner that allows them to express themselves freely, to be consulted and to have their

own views taken into account in accordance with their evolving capacities and on the basis of their access to all necessary information is essential. States and other actors should take all possible steps to enable such consultation and information in the child's preferred language and ensure the use of child-friendly spaces and communication techniques in consultation processes, the provision of reasonable accommodation and disability and age-appropriate support. States should establish a competent monitoring mechanism, such as a children's ombudsperson, commissioner or inspectorate, to monitor compliance with the rules and regulations governing the provision of care, protection and treatment of children in alternative care with unimpeded access to residential facilities in order to hear the views and concerns of the child directly and to monitor the extent to which the authorities listen to and give due weight to the child's views.

70. States and other actors should increase support for children in vulnerable situations, such as those living in child-headed households, unaccompanied and separated children, girls, children with HIV/AIDS, children with disabilities, children in detention, children who exceed the age limit for care systems for children and children from minority or indigenous groups. While such support will take many different forms, the following priority areas must be addressed:

(a) Ending all immigration detention of children, recognizing that detention is never in the best interests of the child, and preventing all separation of children on the move from their parents or caregivers;

(b) Ensuring prompt access to services and appropriate family-based alternative care for unaccompanied and separated children and limiting residential care to specific cases based on the best interests of the child;

(c) Prioritizing the deinstitutionalization of children with disabilities, eliminating the placement of children in segregated or specialized facilities, eliminating the placement of children in alternative care based on disability and promoting the availability of quality, community-based, accessible services and family-strengthening programmes in order to end the institutionalization of children;

(d) Supporting public awareness-raising efforts to reduce discrimination, stigma and marginalization that can lead to family separation.

71. Public and private donors should work to ensure the availability of adequate resources for programmes that support all children without parental care, including children with disabilities and those at risk of family separation. They should support efforts to strengthen alternative care and care reform in line with international standards, to train and maintain the social service workforce, to strengthen social protections for vulnerable families, to provide family-based and community-based alternative care services, to transition children from institutional to family-based care and to train and support caregivers and care leavers. That amounts to a shift in support towards family preservation efforts and ensuring that funds are not used to maintain or establish any form of institution or institutionalization of children or "voluntourism". Donors should also work towards shared international donor principles and good practices related to the family.