## **Deinstitutionalisation of Child Care:** Promoting the child's right to a safe family



Produced by SOS Children's Villages Sri Lanka in collaboration with Children's Emergency Relief International for the conference on Deinstitutionalization and Alternative Care (DiAC) of Children in Sri Lanka.







# PART I: BROAD STROKES: INTRODUCING ALTERNATIVE CARE

#### WHY THIS BRIEF?

The heart of a society can be found in its children. While 22.2% of children in Sri Lanka are living without one or both of their parents, more work lies ahead. Every child has needs as unique as themselves. For that reason, a system able to provide for those needs, within the framework of a family, is the best way to help that child develop and reach their full potential. This outline of alternative care, both conceptually and in the Sri Lankan context, provides insight into both the current system and what efforts are yielding results.

#### **DEFINING ALTERNATIVE CARE**

Alternative care can be generally defined as that which is outside of a legal parental relationship, either biological or through adoption. These alternatives can be further divided into informal and formal care.

#### **INFORMAL ALTERNATIVE CARE:**

Provided by other relatives or friends, undertaken on their own.

#### **FORMAL ALTERNATIVE CARE:**

Provided through government or judicial order, and subject to official standards and processes.

Informal alternative care is worthwhile, since it provides family-based care through those the children are either related to or know. This provides stability in what is often an extremely tumultuous time in their lives. However, the informal nature of this care makes monitoring and study very difficult. Additionally, these arrangements often need family preservation assistance, which is complicated by their informal and therefore unofficial nature.

Formal alternative care has typically focused on institutional care. While this can be helpful in some cases, the best interests of children are typically served through family-based care. This underlines the need for the deinstitutionalisation of child care.

#### **CONTINUUM OF CARE**

The process of deinstitutionalisation is imperative in promoting these family-based and family-like care options. The UN Guidelines for the Alternative Care of Children provides two pillars of any such system:

#### **NECESSITY PRINCIPLE:**

Promoting birth families first and preventing family dissolution.

#### **SUITABILITY PRINCIPLE:**

Determining the best care option for an individual child.

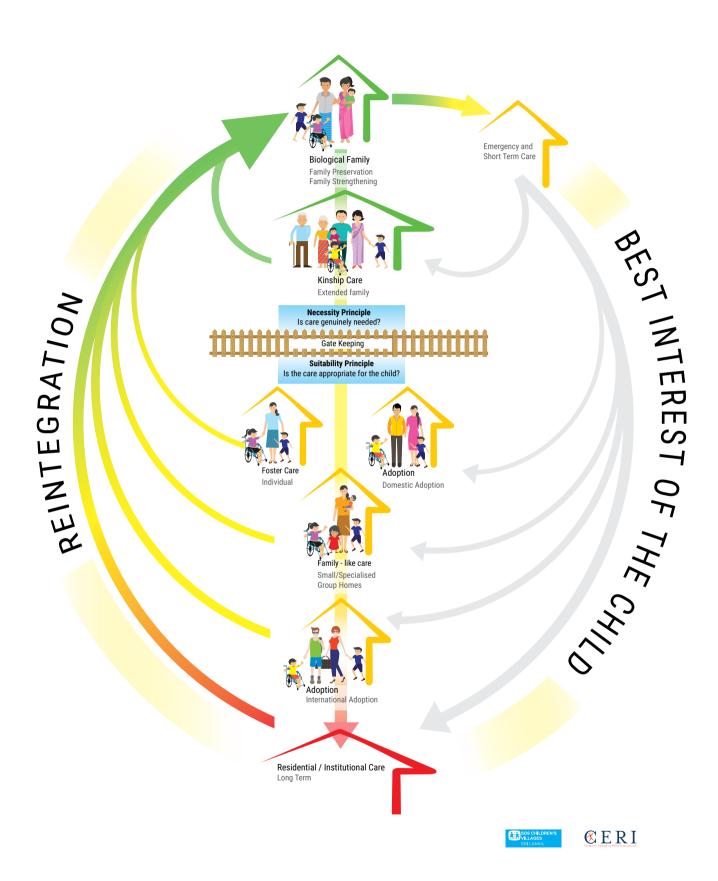
The best option for a child, as has been stated thoroughly already, is their own family and therefore separating them from that environment should only happen when it is strictly necessary. If this is unavoidable, the suitable care option should promote, as much as possible, familial environments.

The need for more diversity in how we address care options is clear in the continuum of care, shown on the next page. In all cases the highest priority is to have the child stay with their birth family, followed by members of their extended family. In the following graphic, priorities are higher at the top and lower and the bottom.

There should always be effort made to place children into better forms of care, especially through family reunification. However, all of these options serve a purpose and complement each other. Where family preservation or reunification is not possible, adoption might be. Where adoption is not possible, other family-based options might be. Where those are not possible, residential institutions might be.

These options provide different advantages, but in the end, family-based options are the most conducive to a loving and supportive upbringing, and are therefore the most preferred.

### **CONTINUUM OF CARE**



#### WHAT IS A FAMILY?

The UN deliberately lacks a specific definition of the word "family". What defines a family is different for different people, and how they meet the needs of the members of that group varies likewise. Additionally, the concept of what makes up a family is constantly changing and evolving. As an example, the feudal family ties that were ubiquitous a few hundred years ago are nearly absent now. Therefore, definitions of family only serve to be exclusive, rather than inclusive. This is important to consider when debating the best interests of a child. Article 3 of the UN Guidelines for the Alternative Care of Children states that:

The family being the fundamental group of society and the natural environment for the growth, well-being and protection of children, efforts should primarily be directed to enabling the child to remain in or return to the care of his/her parents, or when appropriate, other close family members. The State should ensure that families have access to forms of support in the caregiving role. "

This provides no distinction towards race, religion, socioeconomic position or any other form of discrimination. Family is the best place for a child to be raised, and the love and support of a family is independent of these factors. Therefore, the highest priority for care options is to keep families together wherever possible, and providing first alternative family-based care, and finally institutionalised care only as a temporary or last resort. This shift of focus towards families and alternative care options and away from institutions is called **deinstitutionalisation**.

## DISSOLUTION OF FAMILIES AND THE NEED FOR CARE OPTIONS

The first priority of an ideal system for child care is to ensure that the integrity and ability of birth families to care for children are maintained. The actual form of this support depends on the particular family involved. Just as there is an infinite variety of families, there is an infinite variety of problems they face. Not all of these problems can be anticipated, but through programmes of counselling, financial assistance and education, many can be prevented.

## EMPOWERING FAMILIES FOR A BETTER CHILDHOOD

This family comprises three children: one sixteen-year-old girl, Sandamali, and two boys, Shantha and Sunil, aged ten and eight. In 2006 their father committed suicide. This tragedy was followed by their mother remarrying and abandoning them to the care of their grandmother. However, due to a lack of regular income or shelter, this grandmother was forced to place the children in the care of an institution. In this short period of time, they had lost their family, moved multiple times and ended up in institutionalised care. This affected their studies and emotional wellbeing significantly, as one would expect. The Sandamali was a particularly good student, but both her academic performance and that of her brothers suffered greatly due to these circumstances.

In 2016, through the help of 20 individual donors, a completed house was realised for the family. In addition, the grandmother was given the necessary capital to start baking and selling snacks to provide her with a basic income to support the three children. Now, provided with a home, familial care and love, and the emotional and behavioural assistance they need, the children are notably happier. The Shantha and Sunil's grades improved from below ten, to over fifty in every subject, whereas the Sandamali is preparing to sit for her A Levels.

#### UN STANDARDS AND GUIDELINES

The main document outlining global standards for the care and protection of children is the United Nations Convention on the Rights of the Child (UNCRC), which entered into force in 1990. It was signed and ratified by Sri Lanka the following year. In the preamble, setting the context for the rest of the document, the UNCRC states that.

[...] Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding [...]<sup>iii</sup>

Within the articles of the Convention itself are multiple references to both the primacy of the family and its role as the primary source of care for children. These are found in articles 5, 8, 9, 10, 16, 22 and 37, with many more outlining alternative care. This means that in the most basic international standard set for the care of children, family is a top priority.

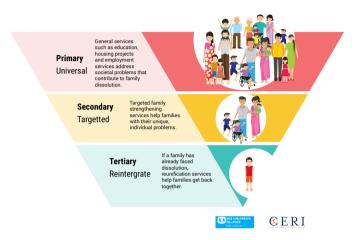
This is further reinforced in the UN Guidelines for the Alternative Care of Children, which was created to assist in legislating and implementing the UNCRC. The very first statement of general principles states that the family is "the fundamental group of society and the natural environment for the growth, well-being and protection of children..." and that family preservation or reunification should always be the preferred option for care. In lieu of these options, it provides thorough standards for the holistic, family-based and family-like care of children. It is a statement of the importance of familial alternative care of children deprived of parental guardianship.

#### DEINSTITUTIONALISATION

A 2013 study by the National Institute of Social Development found that 82% of children in institutions in Sri Lanka had at least one living parent.  $^{\rm v}$ 

Prevention policies can be split into three forms of support for families: primary, secondary and tertiary, which represent general services, targeted interventions and reintegration, respectively.

#### **PREVENTION**



General services are the most important part of this prevention mechanism. They ensure that issues which might result in the dissolution of families never manifest in the first place. Economic programmes to ensure a sufficient livelihood, education systems and access to healthcare all help to ease the stresses that contribute to family dissolution. After this, targeted interventions are necessary to address individual and unique problems threatening families. Tertiary services are often overlooked because unlike the first two categories of prevention policies, reintegration only applies after a child has left their birth family's care. Even after dissolution, every effort should be undertaken to ensure that the child can be reunited with their family. This is reintegration.

If prevention is unsuccessful, it is imperative that there is a system in place to prevent children entering care from being sent to institutions as a first option. This is called **gatekeeping**. Once an effective alternative care system has been established, this gatekeeping ensures that these new systems are used over their institutional counterparts. As seen in the continuum of care shown earlier in this document, the hierarchy of care options has institutionalisation as the lowest priority option.

## PART II: SRI LANKA THE ALTERNATIVE CARE LANDSCAPE

There is a long history in Sri Lanka of family-based care networks, and of the responsibility of care for the wellbeing of both children and other vulnerable members of a community. This should be seen as a widespread cultural manifestation of informal care. Inherent in this is a positive obligation for members of a community to open their homes to those who for whatever reason are deprived of theirs.

Modern Sri Lanka recognises the need to provide the best possible care and support for its children. In addition to ratifying the UN Convention on the Rights of the Child in 1991, the Constitution states that:

The State shall promote with special care the interests of children and youth, so as to ensure their full development, physical, mental, moral, religious and social, and to protect them from exploitation and discrimination. vii

There is extensive legislation and case law involving responsibility for the care and wellbeing of children, though most of this refers to either parental care or the State's responsibility. Current policy does allow for family-based or family-like care. The problem is that Sri Lanka, like all South Asian countries, uses institutions as the default form of care for children without parental guardianship. Further, gatekeeping mechanisms to prevent children from entering institutional systems are still absent. However, an allowance for deinstitutionalised alternatives in existing policies and a fruitful cultural background in kinship care make policy prognoses more positive. Now is the time for discussion and awareness, because now the need for reform is being acknowledged and taken up by policymakers.

#### **INFORMAL CARE IN SRI LANKA**

Like other societies in the region, Sri Lanka has a long history of close village and kinship ties which include the care and protection of those in need. While these were affected by various legal and societal changes over the past few centuries, there still exists a provision for informal kinship care in section 29 of the Adoption of Children Ordinance, No. 24 of 1991. Further, section 57 of the Children and Young Person's Ordinance (CYPO), No. 48 of 1939, explains the Fit Person Procedure by which someone could attain the status of being fit to care for a given child. Section 46 (3-4) then allows for the child to be placed within the care of this fit person until they reach 16 years of age. Viii Kin caregivers can register as such with the relevant government official. Ix

Informal kinship care remains relatively widespread in Sri Lanka. Following the Tsunami, roughly 90% of children who lost both parents were taken in by relatives in these informal arrangements. Despite this, there are no statistics available. \*

Another example is the case of the children left behind by migrant workers abroad. In 2015, the Bureau for Foreign Employment reported 263,307 (males 66%, females 34%) migrant workers from Sri Lanka.xi Separate research has repeatedly found that roughly 90% of these women are mothers, leaving behind their children as they work abroad.xii This continuing practice leaves thousands of children back at home with limited or absent parental care. Nearly three quarters of the primary care givers of these children were grandmothers. This represents one of the most widespread causes and forms of kinship-based informal foster care.xiii

#### **NEVER GIVING UP ON A CHILD**

The majority of Lankans migrating for overseas work are women, and most of them leave their children behind. Jeeva was one such child. When he was younger, his mother and father separated. When his mother left to find work abroad, Jeeva had no parent to care for him and was given to a teacher. However, this teacher too was unable to care for him. He was brought to Jaffna from Colombo and once again placed with a new caregiver - this time the teacher's mother. His life did not get any easier after this. His new caregiver would not let him study at home and he found himself stifled. By this point, he had not only changed caregivers twice, but moved to a part of the country alien to him.

He confided in one of his counselors, and as a result was taken into care. Since his mother was abroad and could not be contacted, he was placed in care. The family-like care that he receives at SOS Children's Villages in Jaffna has improved his emotional capacity. He is once again happy, and hopes to reconnect with his mother once his studies are completed.

#### FORMAL CARE IN SRI LANKA

#### **INSTITUTIONS:**

There are a variety of Child Care Institutions in Sri Lanka providing a variety of functions. These include Remand Homes, Certified Schools, Approved Schools, Receiving Homes, Detention Homes, National Training and Counselling Centres for Children, Safe Houses, voluntary children's institutions, children's homes for disabled children, hostels managed by the Ministry of Education, private boarding houses and religious institutions. A few of these serve as vocational care options, and many serve functions within the juvenile justice system, while others operate strictly as orphanage-type Child Care Institutions.

#### FOSTER CARE:

While no complete policy has been implemented, there is a legal space for foster care. The CYPO provides for fit persons to be awarded guardianship of children deprived of parental care, and though this is rarely used outside of pre-existing extended family relationships, it is a promising foundation to be built upon.xiv Further, the emergency measures passed in the Tsunami (Special Provisions) Act, 2005, addressed the need for children to receive family and kinship care primarily. This needs to be expanded upon, but is a useful start.

#### **EMERGENCY FOSTER CARE IN JUVENILE JUSTICE:**

In cases in which children are in contact or conflict with the law, section 14(2-3) of the CYPO allows for children to be placed in either a Remand Home or in an emergency foster care placement while their case is being heard.<sup>xv</sup> In practice however, children are housed in State Remand Homes rather than an emergency foster care placement, though the Ordinance does allow for this form of alternative care.

However, even following the final judgment of the justice system, through which these temporary placements are undertaken, rehabilitation options are restricted to Certified/Approved Schools or Detention Homes, and foster options are restricted to the same kinship focused system explained earlier.

#### ADOPTION:

When there is a change in the permanent legal guardianship of a child, placing them in the care of another family in perpetuity, this is adoption. This new family is for all intents and purposes that child's family.

#### **CHILDREN OF PRISON INMATES:**

When parents are incarcerated, their children face another form of court-issued separation. Children aged less than five are sent with their mothers to prison, to receive maternal care there. Once the child reaches the age of five, the court overseeing the case can as a first choice place the child under the care of extended family or send them to receive care in an institution. This results in the separation and institutionalisation of many children. The solution to this is less straightforward owing to the legal nature of that separation.

#### **CONVERGENCE OF SERVICES**

There is potential for alternative care options in Sri Lanka to expand their services and better serve the needs of children. However, as these services expand there will inevitably be a need for greater definition and differentiation, reflected in policy. This underlines the need for greater discussion and awareness of the different issues involved. The best solutions are those that involve effective private-public partnerships.

#### CHAMPIONING THE BEST INTEREST OF CHILDREN

This story involves a thirteen-year-old girl, Venuri. A few years ago, her father left the family. Her mother too left with another man, but she subsequently died of cancer, leaving this girl and her younger sister under the care of her 71-year-old grandmother. Even though the grandmother desperately wanted to care for her granddaughter, she only had experience as a labourer, and at 71, she was physically unable to undertake such work. They lived together in a small temporary shack without basic amenities. Due to these conditions, it was proposed that Venuri be taken in by SOS Children's Villages, but the bond between her and her grandmother was strong, and separation was not in her best interest.

The support Venuri and her grandmother have received since this point is an example of effective coordination between different Civil Society Organisations and the government in caring for children. The Nature Foundation has begun a social media campaign to raise funds to provide the family with a house. Meanwhile, they coordinated further support through their contacts in other organisations and government bodies. Multiple organisations, including government departments providing financial aid, local authorities, and Civil Society Organisations specialising in both educational and child protection efforts have helped to raise awareness about the family, have the house approved and built and provided her family with a means of support. The local police and community groups have agreed to keep an eye on her, and she has received substantial help from her school.

Venuri earned the highest marks in her school in the Fifth Grade, receiving a scholarship. The Principal of her school and her teachers have all helped, and thanks to their support and other complementary social support, she is thriving academically and otherwise.

# PART III: NEXT STEPS AND PROMISING PRACTICES

#### THE SOS CHILDREN'S VILLAGES MODEL

For 68 years worldwide and for 36 in Sri Lanka, SOS Children's Villages has participated in the provision of care for children at multiple points in the continuum of care. This is provided through family-like care provided at the children's villages, family strengthening through kinship care and a variety of forms of support for birth families, and advocacy to improve policy and child rights situations beyond their own direct actions.

The Villages themselves allow for children to help build communities in family-based care, giving them the love and support in these specialised groupings to develop as fruitfully as possible. These are organised into houses of one "mother" and a small group of children, with multiple houses forming a community. In this way, SOS Children's Villages create communities of care that can provide for all the needs of these children. Currently, there were a total of 58,000 receiving care in these communities globally, and 1,000 in Sri Lanka with nearly 3,700 in Family Strengthening Programmes.<sup>xvi</sup>

These villages are only for those children who are unable to receive the care of their birth family or from relatives. SOS Children's Villages are also dedicated to helping ensure that this separation occurs as infrequently as possible. By providing emergency as well as women and child shelters, the organisation empowers women to remain the primary caregivers of their children as much as possible. In addition, a programme of kinship care, also through the family strengthening programme, helps make sure that the first option for children is to receive care from those they know and trust.

Despite all the variety of efforts currently being undertaken, SOS Children's Villages is always looking to improve the quality of care and support for vulnerable children. As such, expanded advocacy programmes including its 18+ campaign for youth leaving care are advancing this idea into new areas.

## CHILDREN'S EMERGENCY RELIEF INTERNATIONAL (CERI)

CERI works with children and youth aged up to twentythree, and their families, who have been affected by natural disaster or conflict or live in vulnerable or at-risk conditions.

Through family support, reunification and family-based care, CERI has implemented a system that meets and exceeds children's basic needs. For these families and children, CERI provides case management, child development and parenting education, home assessment and verification support, home monitoring, parent/caregiver/kin support groups, medical treatment (through referral to a medical clinic), monthly financial support and service planning. There are currently 40 children in CERI's family strengthening and family preservation programme in Sri Lanka.

Food security is the other focus of CERI's efforts. Malnutrition is the cause of an estimated 3.1 million childhood deaths worldwide annually and the World Food Programme of the UN estimates that 22% of the Sri Lankan population suffers from some form of undernourishment. Finding sustainable solutions involves the mobilisation of nutritional professionals, education and reliable sources of appropriate food stuffs. Currently, CERI is serving 120 children in Batticaloa through its food security programme.

#### MODELS OF DEINSTITUTIONALISATION

There are many positive developments currently taking place around the world on policies of deinstitutionalisation. Presented here are a few useful examples from different regions around the world.

#### **MOLDOVA**

Moldova has seen the population of Child Care Institutions fall by 50% since 2007 through a combination of gatekeeping, reintegration and family-based care services. These have been made possible by a policy facilitating private-public partnerships between the already extensive network of community social workers, key organisations and voluntary groups. This adaptive and effective reform has improved the child care situation in the country drastically over a very short period of time.

#### **INDONESIA**

Owing to natural disaster and political unrest in Indonesia, the number of children living without the care of their parents is roughly 2.15 million. Despite a historical reliance on institutional care for those unable to live with extended family members, since 2011, considerable efforts have been made to change the system to focus on both gatekeeping to prevent institutionalisation, and alternatives care options to accommodate this shift. This has been facilitated through the centralisation of coordination and oversight for these child care efforts, in their Ministry of Social Affairs, and partnerships with organisations on the ground, most notably Save the Children. These gatekeeping efforts, currently in the pilot stage, have yielded some results and serve as a useful model for both Indonesia and other countries in the region.xviii

#### **MALAWI**

has had its own success in deinstitutionalisation through a refocusing of the system already in place. Their recent policy is based on the ethos of a child as the subject of care, with services structured entirely around the best interests of the child in as holistic a way as possible. The main venue of services is the family and community, providing foster care, and strengthening adoption and family support services. The result has been a significant increase in the number of alternative care services with a corresponding decrease in the use of institutional care.

#### **CHILE**

Chile has shown some early success in their efforts to reform their alternative care system and promote deinstitutionalisation. The government has taken these issues upon itself, receiving support from Civil Society Organisations, but spearheading a policy push on their own. Classifying institutional care as a 'last [...], exceptional' option, they have focused on policies of preventing family separation, and have developed and strengthened foster care and adoption services. This has been bolstered by the goal of having no children under three years of age in a child care institution by 2018. As a result of these efforts, the Chilean government has estimated a reduction of almost 50% in the number children placed into institutional care annually. xix

## CALL TO ACTION

Child care policies are most effective when Civil Society and government work together. These partnerships help to address both systemic and individual causes of family dissolution, and can dramatically increase the impact of everyone's efforts. This is best addressed on the ground, between local stakeholders. There are a few groups of children that need a particular focus in child care policies and interventions: children in contact with the law, street children, children with disabilities and children of prison inmates. The empowerment of local forces, particularly within government, and coordination with other stakeholders is what will make the greatest difference in the lives of these children. We call on everyone to join forces in this drive towards the deinstitutionalisation of child care. For every child deserves the love of a family.

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