Convention on the Rights of the Child - Day of General Discussion (DGD)

Children’s Rights and Alternative care

16 and 17 September 2021

**Submission from Child Protection Agencies (Nepal)**

1. **What are examples of legislation, policies or programmes that effectively strengthen families and prevent separation? What is it that makes them effective?**

The Act Relating to Children, 2018 of Nepal makes it an offence to unnecessarily place a child in institutional care without following the procedure prescribed in the law. Also, the same law appoints the Child Welfare Officer as the only statutory authority who is responsible for approving the removal of any child from family and placements into alternative care. This is expected to prevent unnecessary separation of children from families, however; since it is a relatively new enactment, its effect is yet to be seen.

1. **What are the factors, in your context, that contribute to the institutionalisation of children, and how can they be addressed to prevent it? What needs to be considered in preventing and phasing out the institutionalisation of children?**

*Driving factors*

According to the survey in 2019, a total of 15,045 children stay in 533 child-care homes in Nepal. Children are displaced from their families for escaping from poverty and domestic violence or seeking for quality education and better opportunities. The absence or inadequate family support services in communities hinders efforts to prevent family separation as well as presenting a barrier to the successful reintegration of separated children back in these communities. Lack of access to quality education in remote areas encourages families to institutionalise children. Similarly, vulnerable families and communities are prone to family separations and child displacements as a survival strategy. In addition, limited understanding or access to family planning is another pull factor for unnecessary institutionalization.

International and internal migration are very common in Nepal, which sometimes result in risking children in unnecessary institutionalization. Inadequate awareness on the harms of institutionalization among such families and communities contributes to the ongoing practice of institutionalizing children. Moreover, with increased access to the internet, vulnerable families are often solicited by brokers with great-looking pictures of Kathmandu, the capital city, schools and care homes. As such, children are often institutionalized through trafficking networks due to the poor law enforcement against individuals and agencies involved in trafficking of children to institutions in Nepal.

It is also notable that a large industry of orphanage voluntourism fuels in the continued institutionalization. Many residential care institutions including hostels and monasteries have been found to be profit-making businesses. Whilst at the hard end of the scale this involves orphanage trafficking, at the softer end of the scale this involves well-intentioned people who genuinely believe they are ‘helping’ children whilst simultaneously generating an income for themselves.

*Preventive measures*

Comprehensive gatekeeping mechanisms and parents/child support services must be developed in every local body to prevent child displacement. Existing local structures should be strengthened to support/monitor vulnerable families and to function as a watchdog in the community for any suspicious actions for trafficking. The prevailing laws must be actively applied to identify and prosecute traffickers. There is a need of continuous advocacy to the government for holding accountability on preventing child institutionalization. Systematic data collection is needed to monitor children without appropriate parental care.

There must be investment in quality education including access to quality education in remote areas where children are most vulnerable to institutionalization. Blended approach for both distance and face-to-face learning should be enhanced to help ‘the hardest to reach’ children in remote Himalayan region. Livelihood support programs must be introduced in communities at risk of family separation due to poverty. Access to social support schemes must be ensured through community engagement and awareness raising campaign.

Awareness is a key - wide-spread community awareness programmes must be carried out to ensure that vulnerable families and communities are aware of the harms of institutionalisation and the availability of other support to prevent family separation. Family planning education is also important. Care leavers and parents can be mobilized as advocates in communities for such campaign.

*Prevention of institutionalization*

For phasing out the institutionalisation of children, it is necessary to strengthen the domestic adoption system. The current system of domestic adoption in Nepal has several shortcomings. There is no system of certifying the adoptability of children nor registration of prospective adoptive parents. The system lacks central adoption authority and matching process. By introducing necessary reforms in the domestic adoption system, children without parents can be provided with family-based care through adoption instead of institutionalization.

More efforts need to be made to address to those institutions run to make profits. These can be: (i) understand these individuals, including their motives and the circumstances which have led them to engage in these activities (for example, many of them are in poverty themselves or have been victims of abuse or trafficking as children and are simply implementing a business model they are familiar with); (ii) support these entrepreneurial individuals to find alternative ethical business practices that do not undermine child rights (failure to do this, by only focussing on prohibitive measures against them, only deals with the symptoms and not the causes of profit making institutions); and (iii) promote awareness raising among CCHs together with a legislative approach and support to progressive and responsible closure or transformation of institutions including supporting family reintegration.

1. **What are examples of successful family reunification, and what factors contribute to their success (or failure)?**

Economic stability and psychosocial wellbeing of reunified children and family contribute are big contributors to successful reunification. Transitional services should be in place to provide interim care and shelter where children can receive physical and mental health check-ups and life skill education as a part of preparation before reunification. It is crucial to have a presence of local government from the first place during the reunification processes to nurture their ownership on providing such services and thus ensuring sustainability. Also, It is important to have skilled and trained local Reintegration Officers, psychosocial counsellors, and other social workforces in place within local government as well as expert organizations. On the other hand, lack of comprehensive support system and skilled workforces may put children at risk of further separation from family or of being abused or exploited within the family.

Family breakdown due to separation or divorce is one of the major causes of child displacement in Nepal. Also, death of parents or multiple marriages of parents create challenges in reunification of already institutionalized children. Internal or international migration also causes prolonged family separation which often results in unnecessary institutionalization of children to childcare centres. Absence of responsible parents affects the essence of reunification; the government authorities often deny reunification events in such cases in fear of further risk to children.

1. **How can we work to ensure that children who are or have been provided alternative care and have been victims of human rights violations are offered access to effective legal and other remedies?**

Social justice and necessary legal assistances are critical especially for child survivors from sexual abuse or trafficking. Not only does this build acceptance from reunifying community and prevent re-victimization of the child, but also vital registration documents such as birth certificate and citizenship protect rights of children including access to education opportunity and other basic services. Children in institutional care face particular challenges for obtaining citizenship certificates. Children should not be deprived of legal identity documents because of the failure of care operators to maintain proper documentation of children’s identity and their admission into care. Awareness raising on rights of children and available resources is necessary to promote access to such legal support with children and with those providing alternative care including foster carers and kinship carers. It is necessary to invest on legal aid services that are accessible for children.

Capacity building is essential for local government officials, social workers, helpline staff, etc. on referral pathways for legal support and other available local resources such as compensation schemes, psychosocial support, counselling, required health services, and other specialized services in case of personal injury caused by negligence of care providers.

Child helplines play a critical role to provide a safe space for such children to disclose any issues they face and be navigated to available services.

1. **What are characteristics of high-quality alternative care? [Definition, Examples of Measurement, Practices to be Avoided]**

High-quality alternative care should

* Take account of a child’s language, culture, and religion, thus respecting and protecting identity of the child
* Recognize special care needs and development need of individual child and provides support accordingly throughout the placement
* Provide a harmonious environment that stimulates her/his holistic development including education, wellbeing, and psychosocial development
* Promote participation of the child as per his/her ability on decision making
* Be community based where a child has opportunities to learn and develop social and emotional connection with the community
* Be monitored by the government entities

We should avoid

* Unnecessary institutionalization
* Placing a child in an isolate setting from a community
* Placing a child primarily for economic/material benefits
* Arrangements which is totally dependent upon support from an organization

1. **How can we ensure that children and young people are fully and meaningfully involved in decision-making on prevention of family separation and the provision of high-quality alternative care? What are examples in your context of the participation of children in decisions relating to alternative care, including decisions relating to their individual placement?**

For high-quality alternative care, a concerned child should be consulted at every step from planning, implementation, and evaluation. It is important to make sure that social workers/counsellors create safe space for children to share their views and proactively seek for feedback from children on the placement. It is also helpful to have someone in the community to whom children can talk, trust, and ask for help. For example, peer support networks such as child/adolescent/youth clubs in Nepal not only offer a safe space for children to share any concerns but also help developing capacity of children on their rights and necessary skills for decision making. It is also important to ensure that children can see real-life examples, speak with role models and other children in different forms care to realize that they are able to make informed decisions.

1. **What measures can be taken to ensure there is a well-trained, supported and supervised multi-sectoral workforce in your context or area of work? What makes them effective?**

It is necessary to ensure that there are relevant higher education programs run by universities or tertiary education institutes. In Nepal there are Social Work programs at undergraduate and postgraduate levels being offered by several higher education institutes, however, there are currently no programs that specialize in working with children and families. For the existing workforces, it needs to enhance the multi and cross sectorial trainings for not only social workers but also other workforces in different sectors.

1. **What support do care-leavers need? What do policy makers need to understand about care-leavers?**

Care leavers demand for the aftercare services and continued support for their education and income generation opportunities so that they can smoothly transit to independent adults. These services including emotional support and life skill capacity building should be easy to access for them and the local communities where they live should be closely involved and sensitized in this respect.

Care leavers urge more understanding from professionals of their past emotional trauma and present-day practical challenges in engaging in society outside of residential care. They also need to be supported to have their voices heard and taken into account in a meaningful way. It is also crucial for care leavers to obtain a state identity such as citizenship and birth certificate for continuous protection.

1. **What measures and responses have strengthened family care and prevented separation in the context of the COVID-19 pandemic? What measures and responses have supported or undermined the provision of quality alternative care in the context of the COVID-19 pandemic? What measures and responses should have been applied to mitigate additional protection risks in the context of the COVID-19 pandemic resulting in increased separation from parental care?**

In Nepal, child protection actors conducted vulnerable assessment to identify children and families in financial crisis due to the prolonged lockdown and provided emergency needs-based support including cash transfer, psychosocial support, and referral to relevant services. This contributed to prevent potential family separation and opened a window to develop capacity of parents/caregivers on positive parenting. Access to technologies have contributed in enabling remote counseling and guidance to children and parents.

On the other hand, restrictions on movement and access of ‘outsiders’ to communities have reduced opportunities for family reintegration and establishment of alternative care placements. Child protection workers could not travel to reach families in communities near and impacted on the post-placement monitoring and follow-up reducing the quality of reintegration. The loss of livelihood and earning sources due to pandemic have reduced the opportunities for placement in kinship care as families are more concerned for their own children.

‘Rapid reintegration’ were initiated by some child care homes (CCHs) to avoid COVID-19 outbreak among children, however; as it was done without proper assessment and follow-up support, this was resulted in children being placed at unnecessary risk and were an inappropriate reactionary response. In addition, these were undertaken without usual oversights from local authorities as they were regarded as a temporary measure.

CCHs in operation must have been strongly monitored to assess the movement of children from CCHs ensuring that any changes were approved by local authorities. Local bodies and communities need to maintain up-to-date information on vulnerable families in their areas to ensure that there is monitoring, and that emergency support reaches those most in need.

The opportunity of the pandemic could have been capitalised on to strengthen appropriate child protection systems for national adoption or kinship care when parents are impacted by COVID19.

1. **What needs to be done to address the continuing impact of the pandemic on children’s care, including children in alternative care, as well as to prepare for potential future public health as well as social and environmental crises?**

It is important to ensure that child protection services are recognized as emergency life-saving services and its service providers as frontline workers. The government should have a list of existing social workforces and map referral pathways. This will enable such service providers to provide appropriate services when needed and continue family tracing and family reintegration support even when there are certain restrictions and prohibitions imposed for dealing with public health crisis.

Even there is an immediate need of reducing congestion at childcare facilities, rushed reintegration without appropriate assessment and follow ups should be avoided. Cash assistance can be provided to such reintegrated families to mitigate financial pressures in a situation where they are often already in considerable economic constraints.

There must be increase/expansion of social security provision to include more vulnerable children and families, so that family and community based alternative care is promoted and institutionalization be taken as the last resort.

Note: This is the joint submission of following agencies from Nepal:

1. ForgetMeNot
2. The Himalayan Innovative Society
3. ECPAT Luxembourg
4. Next Generation Nepal
5. World Vision International Nepal
6. UNICEF Nepal