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CoE Recommendation (2005)5
The Rights of Children living in
Institutions, Prevention and
Alternative Care

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Outline

- The context: few remarks on the Council of Europe
- The Report: Children in Residential Institutions, prevention and alternative care; some highlights
- The CoE Recommendation (2005)5 on the Rights of Children Living in Residential Institutions

Council of Europe

- CoE founded 1949, 46 member states
- Mission: to defend human rights, parliamentary democracy and the rule of law
- Main bodies: Committee of Ministers, Parliamentary Assembly, Congress of Local and Regional Authorities, The Secretariat
- Main activities: Human rights, Legal affairs, Social Cohesion, Education and Culture, Transversal projects and Cooperation

CoE, continued

- The European Committee for Social Cohesion: Strategies for Social Cohesion
- Forum for Children and Families
- Working Group: Children in Care and at Risk, (other: Children's Day Care, Children, Democracy and Participation in Society)

The preamble to the Convention on the Rights of the Child

- “The family is the fundamental group of society and the natural environment of growth and well being of all its members and particularly childrenThe child should grow up in a family environment, in an atmosphere of happiness, love and understanding.”

Harmful effects of institutionalization on children

- contributes to social exclusion and stigmatization
- deprivation of emotional nourishment, attachment, lasting relationship and development of social skills
- hampers intellectual (brain) development and
- causes anxiety, personal uncertainty and passivity
- increases aggressiveness and inclination to antisocial behavior
- Child abuse in institutions
- Russian research on orphans leaving care: every fifth develops criminal career, every seventh becomes prostitute and ten percent commits suicide

Harmful effects of institutionalization on society

Message from UNICEF:

- “We are also coming to realize what institutional care does to societies. It perpetuates discrimination, by providing tacit approval for the idea that certain groups of children, whether orphaned, abandoned, living with disabilities, from families affected by AIDS or by poverty should live apart from society....the use of institutional care also impedes the healthy development of communities and society as a whole”.

Harmful effects of institutionalization on society, cont.

The Stockholm Declaration of the Second International Conference on Children and Residential Care, May, 2003:

- “There is indisputable evidence that institutional care has negative consequence for both individual children and society at large”.

Residential care in Europe

- Existing data on the scope of residential care is fragmented and difficult to interpret
- At the risk of some oversimplification, three distinct categories of states can be identified, based on the rate of institutionalization, size and quality of institutional care, reasons for placement, alternative out-of-home placement and family support

Central- and Eastern Europe

- High level of institutionalization: 6 to 20 children per 1000
- Large institutions, up to few hundred children per unit
- High number of orphans and infants in institutional care
- Long duration of placement
- Quality of care often poor
- Poverty the most significant cause for placement
- Low level of alternative care
- Family support limited

South-Eastern Europe (incl. the Caucasus states)

- Low level of institutionalization: typically 1 to 3 children per 1000
- Large institutions, up to several hundred children
- High ratio of infants and orphans in care
- Long duration of placement
- Quality of care often poor
- Poverty and family breakdown significant cause for placement
- Low level of alternative care
- Family support undeveloped

The more Affluent states in Europe (esp. Western Europe)

- Varied level of institutionalization: less than 1 up to 7 per 1000
- Significant progress in de-institutionalization
- Small, family-type residential care is common
- Low rates of orphans and infant care
- Short-term placement common
- Quality of care often satisfactory or good
- Complex reasons for placement, conduct and substance abuse treatment a significant cause
- Generally a high level of alternative care, especially foster care
- Range of services for families

Evolution of institutional care: three stages

- the specialization paradigm
- the normalization paradigm
- the paradigm of children's rights

Recommendation on the
Rights of Children
living in residential institutions

- Basic Principles
- Specific rights
- Guidelines and Quality Standards

Basic Principles

- the family is the natural environment for the well-being of the child and the parents have the primary responsibility;
- preventive measures of support for children and families provided as far as possible;
- the placement of a child should remain the exception and have as the primary objective the best interests of the child

Basic Principles

- the placement should not be longer than necessary and should be subject to periodic review
- a child leaving care should be entitled to an assessment and appropriate after-care support
- the decision taken about the placement of a child and the placement itself should not be subject to discrimination
- the procedure, organisation and individual care plan of the placement shall guarantee the rights of the child

Basic Principles

- any measures of control/discipline should be based on public regulations and approved standards
- the family of the child should be involved in the planning of the child's placement
- when the return of the child to his/her own family is not possible, other means of care should be envisaged, taking into account the child's wishes and the continuity in his or her life path

Specific Rights

- to maintain regular contact with the child's family and significant others
- for siblings to stay together
- to an identity;
- to respect of the child's ethnic, religious, cultural, social and linguistic background;
- to privacy, including access to a person they trust and a competent body for confidential advice;

Specific Rights

- to good quality health care adapted to the needs and well-being of the individual child;
- to respect for the child's human dignity and physical integrity; in particular, the right to conditions of human and non-degrading treatment and a non-violent upbringing, including the protection against corporal punishment and all forms of abuse;
- to equal opportunities;

Specific Rights

- to have access to all types of education, vocational training, under the same conditions as for all other children;
- to be prepared for active and responsible citizenship through play, sport, cultural activity, informal education and increasing responsibilities;
- – the right to participate in decision-making processes concerning the child and the living conditions in the institution;

Specific Rights

- to be informed about children's rights and the rules of the residential institution in a child-friendly way;
- to make complaints to an identifiable, impartial and independent body in order to assert children's fundamental rights.

Guidelines and Quality Standards

- a placement should be selected which is as close as possible to the child's environment
- a small family-style living unit should be provided;
- priority should be given to the physical and mental health of the child
- an individual care plan should be drawn up which is based on both the development of the child's capacities

Guidelines and Quality Standards

- conditions that allow continuity of the educational and proper emotional relationship between staff and the children,
- an internal organisation of the institution should include:
 - -the quality and stability of living units;
 - -mixed living units, when this is in the best interests of the child;
 - -high professional standards of the staff, benefiting from in-service training
 - -codes of ethics, consistent with the United Nations Convention on the Rights of the Child;

Guidelines and Quality Standards

- all residential institutions should be accredited and registered with the competent public authorities on the basis of regulations and national minimum standards of care;
- on the basis of these standards, an efficient system of monitoring and external control of residential institutions should be ensured;
- relevant statistical data should be collected and analysed, and research for the purposes of efficient monitoring should be supported;

Guidelines and Quality Standards

- any infringements of the rights of children living in residential institution should be sanctioned in conformity with appropriate and effective procedures;
- non-governmental organisations (NGOs), religious organisations and other private bodies may play an important role concerning children living in residential institutions;
- this role should be defined by member states' governments. Involving non-governmental bodies should not release member states from their obligations towards children in residential institutions

Council of the Baltic Sea States: Cooperation on “Children at Risk”

Conclusions of Ministerial Meeting, Oslo, June 2005

- Welcome the recommendations of the Council of Europe Rec 2005:5 and encourage the WGCC and the Children’s Unit to support and stimulate countries in their work of adhering to these recommendations.
- Mandate the WGCC and the Children’s Unit to develop a proposal on how the situation for boys and girls in institutions in the region could be monitored using the Convention of the Rights of the Child and the recommendations from the Council of Europe as a foundation for the monitoring work.

UN Guidelines?

- UNGASS 2002 adopted Plan of Action in order to empower children and institutions ... “to strengthen children’s own ability to protect themselves”
- CRC, General Discussion’s Day, Sept. 2005
Recommendation: To prepare “a set of international standards for the protection and alternative care of children.. for the UN General Assembly to consider and adopt in 2006”