



HOME TRUTHS

Children's Rights in Institutional Care in Sri Lanka

Advocacy Document



Canadian International
Development Agency

Agence canadienne de
développement international



Save the Children
Canada

HOME TRUTHS

Children's Rights in Institutional Care in Sri Lanka

Advocacy Document

Prepared By
Andy Bilson and Pat Cox



Canadian International
Development Agency

Agence canadienne de
développement international



Save the Children
Canada



Save the Children
in Sri Lanka

Save the Children in Sri Lanka
58A Horton Place
Colombo 7
Sri Lanka

Tel: 00 94 11 2672668-74
Fax: 00 94 11 2672671/5
www.savethechildren.lk

First published 2005

© Save the Children in Sri Lanka 2005

NGO Registration No: FL.03611

All rights reserved. No production, copy or transmission of this publication may be made without permission from the publisher, and a fee may be payable for violation of this condition.

ISBN: 955 - 1197-01-1

Cover design by: ICA HOLDINGS(PVT) Ltd.
Cover photographs: Jagath Dheeraseskera, Karin Beate Nøsterud

Contents

ACRONYMS	i
-----------------	----------

ACKNOWLEDGEMENTS	ii
-------------------------	-----------

PREFACE - COUNTRY PROGRAMME DIRECTOR	iv
---	-----------

NOTE FROM THE MINISTRY OF WOMEN'S EMPOWERMENT AND SOCIAL WELFARE	vi
---	-----------

EXECUTIVE SUMMARY	vii
--------------------------	------------

TABLE 1 PROBLEMS IDENTIFIED IN THE STUDY, CHILDREN'S VIEWS AND RECOMMENDATIONS OF THE REPORT	ix
---	-----------

1. THE STUDY	1
2. POLICY FRAMEWORK	3
3. INSTITUTIONS IN SRI LANKA	6
4. ENTRY TO INSTITUTIONAL CARE	12
5. QUALITY OF CARE	17
6. CHILD AND FAMILY PARTICIPATION	23
7. STAFFING	25
8. RECOMMENDATIONS	27

Acronyms

CENWOR	- Centre for Women's Research
CRPO	- Child Rights Promotion Officers
DCPC	- District Child Protection Committees
DPCC	- Department Probation and Childcare Services
NCPA	- National Child Protection Authority
PO	- Probation Officer
UNCRC	- United Nations Convention on the Rights of the Child

Acknowledgements

Save the Children in Sri Lanka would like to thank the following individuals and organizations for their generous support;

Andrew Bilson and Pat Cox of the University of Central Lancashire, UK for formulating the advocacy document,

Save the Children Canada and the Canadian International Development Agency (CIDA) for providing financial support for the original study,

The UK Department for International Development (DFID) for providing matching funds.

Save the Children Canada, specially Kim Kerr, for valuable input in the formulation of the research project,

The University of Colombo, The Centre for Women's Research, and the University of Jaffna for implementing the research with such dedication,

Ramanie Jayathilake and Harini Amarasuriya for the original report.

The University of Colombo team: principle researcher: Prof. Ramani Jayathilake; co-researcher: Suwineetha Gunesekara; project coordinator: Namal Weerasena; data analyst: Dharmadasa Paranagama, the CENWOR team: principal researchers Harini Amarasuriya and Malsiri Dias; data analyst; Siva Sivasubramaniam; The University of Jaffna team: principal researcher: Dr. R. Surenthirakumaran; consultancy and report writing: Prof. N Sivarajah; technical advisors: Prof. DJ Somasundaram; Prof. N Shanmugalingam; co-researcher (Jaffna/Vanni): S. Stephen; co-researcher (Baticalloa/Ampara/Trincomalee): R. Rajeskannan; field co-ordinator, east: G Thillainathan; data analyst: V Nishanthan,

The Children's Research Advisory Group for their invaluable input during the research,

The Research Advisory Group for their support and contribution,

The commissioner from the National Department of Probation and Child Care, and the provincial commissioners of the Southern, Western, North-East, and Central provinces for their support,

The directors of the Departments of Social Services for their support,

The Tamil Rehabilitation Organization (TRO) for their support for the project in the North-East,

Dr Padmini Mendis for sharing her expertise on working with children with disabilities and for participating in training the research assistants

Dr Gameela Samarasinghe for training the research assistants on identifying and observing the psychosocial needs of children,

The managers and caregivers in the children's institutions for allowing this study to take place without hindrance,

Michael Copland of UNICEF,

All staff members of Save the Children who gave their valuable expertise and time to the research project.

Save the Children and the researchers would like to especially acknowledge the contribution of the children who participated in this study. They were generous with their time and readily shared their experiences with the researchers. They were an inspiration and we hope this study would contribute to improving their lives, and as far as possible, within families and communities.

Save the Children in Sri Lanka
August 2005

Preface

The Advocacy version of *Home Truths: Children's Rights in Institutional Care in Sri Lanka* is a document for use by policy makers, care providers and other stakeholders in institutional care who are striving to improve the condition of children's institutions, and more importantly, attempting to minimize incidences of institutionalization in Sri Lanka. It is an outcome of the comprehensive research study of the same title (2005).

Save the Children in Sri Lanka believes, as stated in the United Nations Convention on the Rights of the Child, that the most appropriate place for the growth and development of a child is within the context of his or her family and community. Yet, we are also aware that at the time of this study, almost 11,500 officially registered children (2002 data), and many more children who were yet undocumented, were growing up in institutional care in Sri Lanka, both in state and private institutions. The current figures are even more.

While Save the Children in Sri Lanka acknowledges that the need can arise for the institutional placement of children, we are aware of the increased risks to children, both emotional and physical, within such settings, both during care, and as an aftermath of such care. In keeping with the national policies of the Government of Sri Lanka, Save the Children stresses the need to explore alternative forms of care, including family and community-based care, before the option of institutionalization is considered.

Save the Children's concern on the quality of institutional care for children in Sri Lanka has been a long-term one. In the early nineties, the organization undertook two studies on the institutional care of children, and later on, continued this engagement through Save the Children Norway in participating and contributing expertise at the Stockholm Conference on Residential Care in 2003. This research study was a predictable outcome of Save the Children's continued interest in Sri Lanka on issues of institutional care.

Home Truths provides evidence of the situation of institutions for children in Sri Lanka which leaves ample room for improvement, and, most strongly, the testimonials of children themselves, who unequivocally state how they miss the love and affection they are more likely to receive at home, and how they resent the lack of privacy, dignity, and individuality in institutional settings. The advocacy document also stresses the need for the availability for a range of community-based services to be made available to children in difficult circumstances to minimize institutionalization, the need for the provision of better social safety nets in general for such families, and the need to perceive institutionalization strictly as a temporary measure whenever it is necessary. It also lists resources that could guide policymakers and caregivers to best practices in other parts of the world.

The original study is also special in its involvement of children not only as respondents, but as a research advisory group that supported the entire research process, and gave input at every stage. We hope this will pave the way for the greater involvement of children in the formulating and planning processes of research, which clearly adds depth and meaning to research of which they are the central subject of inquiry.

The original study and this advocacy document is only a step in a series of strategic interventions at Save the Children Sri Lanka on institutionalized children, including family reunification and raising quality of care standards within institutions. We hope that this study indicates a way forward for Save the Children, the Ministry of Social Welfare, Departments of Probation and Child Care, and other organizations working with children in institutional care to come together to address the issues raised in its valuable recommendations, to focus on strengthening mechanisms for providing family- and community-based care for children, while, at the same time, ensuring that acceptable standards are maintained in the quality of care within institutions so that children enjoy a better quality of life in institutions, if they need to be there at all.

The official endorsement of this document by the Ministry of Social Welfare and the use of its recommendations in critical planning sessions at the Ministry are a great source of strength to Save the Children of official commitment to its principles.

Save the Children wishes to thank the Ministry of Social Welfare and the Department of Probation and Childcare who have demonstrated interest in the project at each stage of its development and given input, the research agencies for undertaking this challenging study, Andrew Bilson and Patricia Cox for working on this invaluable advocacy document, and everyone else within and outside Save the Children who contributed to the research process.

Greg Duly

Country Programme Director
Save the Children in Sri Lanka

August 2005

Note from the Ministry of Women's Empowerment and Social Welfare

We are in agreement with the recommendations of the Save the Children in Sri Lanka publication *Home Truths: Children's Rights in Institutional Care in Sri Lanka*. The document virtually identifies all the issues and a number of initiatives for improvement in that regard and they are most welcome.

The Ministry is keen to seek permanent, scientific and lasting solutions rather than add to the problem by piecemeal changes. The same applies to the roles of the probation officer and CRPO and their respective duty lists. We are in agreement with the observation of the study which highlight the way in which their legal as well as administrative duties are tangled up.

We are also in concurrence with the observations of the research that capacity building is essential in the best interests of the child. The coordination between all these bodies must happen firstly at the highest levels and should not start at the donor and the caregiver level. Sometimes the officers are vulnerable in the face of varied demands and enticements made by donors and the political authorities.

We are also happy about the ideas of community participation and community involvement recommended in the report although we need to critically look at the difficulties on the ground and the lack of resources that make such a task a challenge. The research study also sees very correctly the reasons for sending children to institutions in both state and voluntary institutions. Though ideally this must be the last option in a civilized society the naked truth is poverty in many instances. While we lift capacity and competence in the POO and the CRPO and institutional staff there must be some enticing monetary entitlement to the family to keep the child within the family. We have to pursue these alongside our other recommendations lest the talk of the community becomes a mere platitude.

We intend to discuss fully the recommendations made in the report at forthcoming national planning sessions with all the Provincial Commissioners and the Provincial Ministers in charge of the subject of Child Protection. We are striving to reach an agreement consensually on these best practices to ensure uniformity in practice throughout the island. It is our intention to assist the Provinces to draft rules and procedures in this regard in order to guarantee that they are put into operation in the best interests of the child.

W. H. W. Soysa

Additional Secretary

Ministry of Women's Empowerment and Social Welfare

August 2005

Executive Summary

This research details the comprehensive full report of *Home Truths* carried out for Save the Children in Sri Lanka by staff at the universities of Colombo and Jaffna and the Centre for Women's Research (CENWOR). In the study children's voices confirm the findings of international research which shows that for many children, placement in institutional care has a serious and negative impact on children's development, well-being and rights.

This document is organized under the following headings:

Chapter 1 - The Study: Discusses the methodology which involved children as advisors and as key informants. Using a questionnaire, information was collected from a total of 329 institutions in the Central, Southern, Western and North-East Provinces. A sample of 84 of these institutions was selected for in-depth study. Researchers stayed for five days in each institution observing practice, interviewing and holding focus groups with children, care givers, home managers, probation and government officers and community leaders. The study found positive policies and pockets of good practice but there were many serious failings. Key findings of the study are organised under the following headings:

Chapter 2 Policy Framework: The study found that the government of Sri Lanka has actively responded to its commitments under the United Nations Convention on the Rights of the Child (UNCRC) which it ratified in 1991 and whose recommendations on a number of issues it has continued to address. However there is a major gap between policy frameworks for children in institutions and its operation in practice. In particular the lack of adequate implementation of the policy framework of the DPCC leads to too many children entering care, insufficient use of family support and foster care, and children staying in institutions longer than necessary.

Chapter 3 - Institutions in Sri Lanka: Describes the mapping of institutions in the four provinces and gives data about children in them. Some institutions were not registered and there was limited flexibility in their use, leading to children being placed in distant regions. The mapping shows that numbers of children in institution are also underreported in official data. In the Southern province 36% of children in institutions are from outside the province; in the Western province 31% are from outside making family linkages and reunification complicated. Around 40% of children had been in care for longer periods than the three year limit of the DPCC policy. Many institutions had rigid regimes and some beat and verbally abused children. Children who entered state institutions because of abuse were treated as offenders and received no therapy.

Chapter 4 - Entry to Institutional Care: Children enter care for a variety of reasons often associated with poverty and family breakdown, offending and abuse. Only 8% of children in voluntary institutions, often labelled "orphanages" were without both parents. And 50% of children admitted to institutions were there due to poverty. There was patchy and limited use of services to enable children to stay with their parents and families and little use of alternative forms of care such as fostering. This was due to a range of issues including lack of availability or knowledge of current schemes; the limited range of alternative services available in most areas; bureaucratic barriers to the use of alternatives and beliefs among probation officers and communities that residential care is the only viable option.

Chapter 5 - Quality of Care: Conditions in institutions were inconsistent in voluntary homes and, with a few notable exceptions, conditions for children in state run institutions were extremely poor. In many state institutions there was poor sanitation, inadequate sleeping arrangements and children were not provided with a nutritious diet. The emotional needs of children were rarely met and some fundamental rights were violated. Conditions in voluntary homes were variable with examples of good practice alongside poor conditions similar to those in state institutions. Children strongly resented the lack of privacy, and felt they were not allowed dignity and individuality. Minimum standards exist for voluntary homes but are not adequately monitored and there are no standards for state institutions.

Chapter 6 - Child and Family Participation: There was little consultation with children about entry to institutions or their care when there; complaints were not acted upon. In some homes families were not allowed to visit and many did not encourage partnership with parents. Many children were separated from brothers and sisters.

Chapter 7 - Staffing: Some staff provided good care but many lacked basic knowledge and skills. There was an organisational culture in many parts of Probation that encouraged the use of institutions.

Chapter 8 - Recommendations: The table below shows key recommendations and how they relate to the problems found in the study, children's rights and the views of children interviewed by the researchers. More specific recommendations and priorities for implementation are discussed in Chapter 8.

Table 1 Recommendations in Relation to Problems Identified in the Study and Children's Views

Recommendation	Problem identified by study	Rights perspective	Children's perspective
1. Children should only be admitted to institutions where this is in their best interests	Children entered care for poverty and lack of education. Alternatives were not properly considered.	The principle of the child's best interests (Article 3) and the duty of the state to provide material assistance and support programmes (Article 27).	"I want to go home. I want to be with my parents and sisters and live happily."
2. Each child should have an individual care plan.	Assessment and planning for children is inadequate.	The principle of the child's best interests (Article 3) and right to a periodic review of care and treatment (Article 25).	"Here I receive food, clothes, medicines everything. I have much better comforts here. But I have a burning sadness (<i>nonimena dukkak</i>). I do not know where my younger brothers are, I want to find them."
3. A range of responsive services designed to meet locally assessed children's needs including: A range of community-based services to prevent entry to care. A local range of alternative placements providing family-based care. A range of local institutions suitable for temporary placement of children.	Community-based services to prevent entry to care are not always available and are subject to administrative hurdles. Foster placements, adoption and alternative placements are under used or not available. Many institutions are distant from children's communities, overcrowded, and do not provide therapy or rehabilitation. Some institutions did not allow freedom to profess the child's own religion.	The duty of the state to provide assistance to parents (Articles 18, 27 and 23) and the duty of the state to provide services to prevent maltreatment (Article 19) The duty of the state to provide special protection and alternative care or if necessary and for short periods place children in institutions suitable for their care (Article 20).	"We receive comforts here. But children should be with their parents. When I go home for vacations I visit my friends. I cycle. I visit my relatives. Mother prepares nice things to eat." "We learn only from books. We do not get to know about society" "I want to go to the kovil and pray to the gods, but here I can't do that."
4. Corporal punishment of children in care should be banned.	Children in some institutions were being beaten.	The duty of the state to ensure children are not subject to cruel, inhuman or degrading treatment or punishment. (Article 37).	See the case study of "Suthan"
5. Institutions should allow children to have contact with children in local communities and encourage the use of community services.	Children had little opportunity for mixing with children outside the institution or using community facilities.	The right of freedom of association (Article 15).	"Does protection mean keeping us caged? This is a mental pain for us."

Recommendations in Relation to Problems Identified in the Study and Children's Views

Recommendation	Problem identified by study	Rights perspective	Children's perspective
6. Standards covering the environment and quality of life of children should be developed and a comprehensive system of registration and monitoring implemented.	The quality of care in many establishments, particularly those run by the state was poor. There was inadequate food, poor sanitation, limited health care, poor sleeping arrangements and the emotional needs of children were severely neglected. There were no standards for state institutions.	The duty of the state to ensure institutions conform to relevant standards (Article 3), to place children in institutions suitable for their care (Article 20) etc.	"We sleep like dogs." "We also like to wear good clothes like other children." "Getting tasty food is a real problem in the home. They don't properly prepare food like <i>pittu</i> ."
7. Systems should be set up to ensure children's views are heard particularly about a) Their care plan b) Their day to day care c) Complaints	Children are rarely consulted about their views on their care and needs, and their complaints are ignored.	The principle of responding to the views of the child (Article 12).	"I do not like to eat vegetarian food. We cannot ask for fish or meat in our meals." "I want to fast during Ramadan time and worship Allah."
8. Planning and services need to ensure, support and promote the involvement of and continued contact with parents and family.	In some institutions parental contact is discouraged, elsewhere parents are not supported to visit. Also children lose contact with parents and family members.	The duty of the state to respect the responsibilities and rights of parents (Article 5).	"My home is far away. Therefore my mother cannot come to see me. Here we do not have any one to tell our sorrow. Even at a time of sickness when we tell they scold us. My father and mother are not like that."
9. All institutions, probation offices and services working with children should have a staff development plan which covers assessment of staff training needs and skills, supervision, support and training.	Many staff were unaware of children's rights or best practices and there was an organisational culture that promoted institutionalisation.	The duty of the state to ensure that institutions and services meet standards for the number and suitability of staff and provide competent supervision (Article 3).	"The big sister (caregiver) is like a mother to me. She looks after us well. When I receive her love and affection I do not feel the absence of my mother."

Please see Chapter 8 for detailed recommendations.

1. The Study

The study was carried out by staff at the universities of Colombo and Jaffna and the Centre for Women's Research (CENWOR) and detailed findings are published in the full report of *Home Truths*.

1.1 Objectives

The objectives of the study included: mapping information about institutions in the Central, Southern, Western and North-East provinces; determining quality of service provision to meet children's present and future needs and identifying examples of good practice; identifying causes of institutionalization; noting preventative practices and alternative forms of care and assessing the existing policy, procedural and regulatory environment.

1.2 Methodology

A two stage methodology was developed to achieve these objectives. The first stage consisted of a mapping exercise that began with identifying institutions in all four provinces showing that existing lists were inaccurate. Quantitative information about individual institutions was collected through a structured questionnaire, usually administered by the chief care-giver in each institution.

From the total of 329 institutions identified in the mapping, 86 were selected for in-depth study: 13 out of 35 in the Central province; 8 out of 31 in the Southern province; 22 out of 89 in the Western province and 43 out of 174 in the North-East province. Institutions fall into 3 major categories: state-run institutions, voluntary institutions, and institutions for children with disabilities. A representative sample of the state run institutions was selected, with a stratified random sample of the two other types of institution. Not all categories were selected in each province: additionally, three school hostels were included in the in-depth study of the North-East province, considering the role of boarding schools that went beyond that of school hostels during the war; two institutions that address counselling and training for children were included in the study of two others.

The researchers stayed for five days in each institution selected, which enabled the children to become used to them. They spent time with the children; explained the study to them and got their consent to participation. Qualitative information was collected from children through participatory methods, including focus groups. Some case studies were also undertaken.

Caregivers in each selected institution were observed and interviewed; documentary evidence was collected and some records in the selected institutions were read. Many other stakeholders including child rights promotion officers, probation officers, teachers, heads of institutions and of schools, religious leaders and neighbours were interviewed using a semi-structured interview schedule, as were workers with knowledge and experience of childcare and protection. Parents and families were not included in the study.

1.3 Child Participation

The study centralises children's perspectives and involvement, consistent with a rights-based approach. Children were involved in developing the research and were involved in as many of the research stages as possible, including consultation about their involvement. A Children's Research Advisory Group participated in training research assistants and commented on preliminary research findings.

Children were a key source of data in the study. A range of child friendly research techniques were developed and researchers made good relationships with children in the institutions.

2. Policy framework

The study found that the government of Sri Lanka has actively responded to its commitments under the United Nations Convention on the Rights of the Child (UNCRC) which it ratified in 1991 and whose recommendations on a number of issues it has continued to address: see for example Office of the United Nations, (2003). However there is a major gap between policy frameworks for children in institutions and its operation in practice.

2.1 International Conventions and the Sri Lankan Context

Sri Lanka signed the UN Convention on the Rights of the Child in January 1990. That September, Sri Lanka participated in the World Summit for Children and became party to the World Declaration on the Survival, Development and Protection of Children. In July 1991, Sri Lanka ratified the Convention on the Rights of the Child and in August 1991 the convention came into force. In 1992, the government brought out the Children's Charter. In September 2004, it launched the National Plan of Action for the Children of Sri Lanka for 2004-2008. The section on institutionalised care in this plan seeks to improve the conditions of institutions and to reduce the number of children being institutionalised (2004:49).

2.2 National Legal Environment

There are a wide range of ordinances covering the protection of children, many originating in the early half of the twentieth century (for a list see appendix 1). There are initiatives under way to review and revise some of these legal enactments. Progress has been made to ensure that the ordinances are in line with child welfare principles, and international standards: for example in relation to child labour, commercial sexual exploitation and protecting children from the effects of domestic violence. It has been recognised that changes are necessary to make the entire child protection process more child-friendly.

2.3 The National Child Protection Authority (NCPA)

The NCPA was set up in 1998 under the NCPA Act No 50 of 1998. The mandate of the NCPA is to:

- Formulate policy on child abuse and exploitation;
- Provide therapy and rehabilitation for victims of child abuse;
- Coordinate the different agencies involved with regard to the prevention of child abuse and protection of victims;
- Monitor resource mobilisation with regard to child abuse.

The functions of the NCPA that have direct relevance to children in institutions include; *recommending appropriate steps for the safety and protection of children in conflict with the law and monitoring organisations which provide care for children.*

The NCPA has started to establish District Child Protection Committees (DCPC). The effect of these committees in the four provinces covered by this study was variable. In Galle and Jaffna districts effective practice by the DCPCs resulted in comparatively better communication between the different child care agencies.

A major issue is that victims of child abuse placed in state institutions, rather than receiving therapy and rehabilitation, are treated as offenders.

2.4 The Department of Probation and Child Care Services (DPCC)

The Department of Probation and Child Care Services (DPCC) is the key agency responsible for supporting children to remain with their families. It is responsible for the assessment of children's welfare with a long standing official policy (Circular 12/76 of 1976) that emphasises the importance of keeping children in their families and communities and mandating probation officers not to admit a child to care unless all alternatives have been explored fully and requiring chief probation officers to monitor this. It specifically states that no child should be placed in an institution due to economic reasons. The circular also states that all new admissions should be limited to three years, and that children are placed in institutions in their own communities.

The mandate of the DPCC includes ensuring the welfare of children placed in institutions. However this study found that the mechanisms in place to regulate and monitor children's institutions were ineffective. A glaring gap is the lack of guidelines for common standards for state run children's institutions while standards exist to regulate voluntary institutions. While these standards are also not monitored effectively, there is at least a mechanism in place which could be implemented.

Probation Officers (POs) and Children's Rights Promotion Officers (CRPOs) have different roles and are managed in different ways. Probation officers have responsibilities under the Children and Young Persons Ordinance (CYPO) and the Community Service Ordinance (CSO). The former ordinance defines their role and responsibilities in relation to courts; young people on probation and young people who have committed offences; the latter ordinance defines their role and responsibilities in relation to children's welfare: including providing advice on support and maintenance; child employment; children in institutions and child protection. Child Rights Promotion Officers' responsibilities include: implementing and developing community awareness of the UNCRC; combatting child labour; ensuring health and development of children and encouraging education; providing support to children in difficult circumstances and implementing both the Kapakaru Deguru and Sevana Sarana Kepakaru Mapiya Schemes. Like the probation officers they have responsibilities in relation to child protection - rehabilitation of victims of abuse and undertake work with young people who have committed offences. POs are managed within provinces and CRPOs are managed centrally.

The DPCC has devolved some aspects of its operation to provinces with the aim of ensuring its services are more responsive to community needs. This has allowed the North-Western province for example, to establish a remand home with the support of an NGO thus reducing the need for distant placements. However this flexibility is little used in the provinces studied. Moreover, it is the central DPCC that employs child rights promotion officers (CRPOs) and this kind of duality of roles often creates problems in co-ordination and equitable resourcing. The study highlights a number of other issues in the operation of the agency that demonstrate a gap between this policy and actual practice. These are:

1. Childcare planning and review is not effectively implemented or monitored; consequently institutional care is not used as a last and temporary resort
2. Children are placed in distant institutions.
3. There are bureaucratic incentives to use institutional care: alternatives are complicated, difficult to arrange and not always known about

4. There is an organisational culture that fails to recognise the importance of maintaining children in their families and communities
5. Delays in providing social reports have led to children spending lengthy times in remand homes
6. There are insufficient numbers of probation officers
7. Probation officers do not have adequate training

2.5 Regulations on Children in Conflict with the Law

There are no systems and policies whereby children who have broken the law and children who are victims of abuse are differentiated, even by the judicial process. Also within the process, children are not treated in a child friendly manner. Once a child comes in contact with the system, he or she is treated like an offender. The juvenile justice system has been described as being "... so fundamentally flawed that ideally it should be scrapped" (Samaraweera 1997:130). In this study similar problems to those identified by Samaraweera were found to still be the case.

2.6 Co-ordination between Regulatory Bodies and Care Providers

A major flaw in the system is the lack of coordination between different agencies. There are many different actors in the process from the point of identifying a child or family in need of support and protection. These include the DPCC, the Department of Social Services, the Ministry of Labour, the Police, the NCPA, and child rights promotion officers (CRPOs). However, no single agency takes overall responsibility for the child's welfare through the entire process and there is no proper coordination between these agencies.

2.7 Children with Disabilities

Institutions for children with disabilities are registered and monitored by the Department of Social Services. Services for the disabled come under *Protecting the Rights of the Disabled Act No. 28* of 1996 formulated by the Ministry of Social Welfare. The 2003 National Policy on Disability recognises the UNCRC as the basis for care of children with disabilities and advocates community based rehabilitation. The right to participation in family and community life as well as safeguarding the best interests of the child are seen as paramount considerations [UNCRC article 23]. The policy also recognises the importance of supporting parents and other family members to support children. This study found no evidence of this being implemented in practice. As a result there was increased risk of children with disabilities being institutionalised, often for long periods, with little effort to reintegrate them with their families and communities. But the study also found that some children with disabilities did have good links with their families and communities.

3. Institutions in Sri Lanka

Findings in this chapter are divided into four sections: mapping of institutions, purpose, distance and regimes.

3.1 Mapping of Institutions

There are 2 broad types of institutions: **1) state-run institutions** which come under the purview of the DPCC, and **2) voluntary institutions** run by private organisations or individuals through management committees, some of which receive sponsorship monies from outside Sri Lanka and which include homes for children with disabilities. All voluntary institutions, except institutions for children with disabilities, come under the Department of Probation and Childcare. Institutions for children with disabilities come under the Department of Social Services. Both the DPCC and the Department of Social Services come under the Ministry of Social Welfare.

Table 3.1 Types of Institutions in Study

Type of institution	Sector	Purpose
Remand homes	State	For children accused of crimes who stay until the outcome of a court appearance.
Voluntary remand homes	Voluntary	For children accused of crimes who stay until the outcome of a court appearance.
Certified schools	State	For the rehabilitation of children who are convicted of crimes or victims of abuse.
Approved schools	Voluntary	Similar to certified schools.
Receiving homes	State	For children up to the age of five years.
Detention Homes	State	For street children and children in other difficult circumstances
National training centres	State	For victims of child abuse and child offenders provide counselling
Voluntary homes	Voluntary	These homes are for a wide range of children and have a range of purposes. Some are run by religious organisations and some by charities. Includes homes for children with disabilities.

The first stage of the research was the mapping of institutions to identify what provision was available in which province. There was no recent reliable list of institutions in the North-East province available at the start of the research: it was discovered that some listed institutions no longer existed and that new ones had been established. One result of advocacy undertaken during the research is that homes in this region are now being registered, so the information below may not be entirely accurate. In the Central and Western provinces the numbers of voluntary institutions have increased considerably since the year 2000.

The research identified 329 institutions in the four provinces (including 30 institutions for children with disabilities) more than the official 2002 figure showed for the country¹. According to the Statistical Report of the DPCC in 2002, there were 11,495 children in 223 children's institutions in the country¹. The study showed that there were 15,068 children in institutions in the four provinces alone. Of these, 8622 were in the North-East province (Table 4.5 in the main report). This showed a gross underreporting in national statistics, most probably from the North-East province, where a majority of the institutions were unregistered. This may be due to some increase in the number of institutions but is more likely caused by the lack of registration identified by the researchers.

Table 3.2 shows that institutions are distributed unevenly across the province, which is an issue in relation to specialist provision and will be discussed later.

Table 3.2 Distribution of Type of Institution by Province

Province	Receiving Home	Certified School	Remand Home	Detention Home	Voluntary Home	Home for Children with Disabilities	Other	Total number of institutions	Number of Children
Western	1	2	2		72	12		89	4,594
Southern	1	1	1	2	20	6		31	1,063
North Eastern	1				150	8	15	174	8,622
Central	1				30	4		35	1,279
Total	4	3	3	2	272	30	15	329	15,068

3.2 Purpose of Institutions.

The unequal distribution of state-run homes is an issue in the North-East province. Here there are no state-run homes apart from a receiving home and therefore no facilities for children awaiting court appearances, apart from voluntary homes which refuse to take them, resulting in children being placed inappropriately with adult prisoners. Some children who are victims of abuse are kept with adult prisoners, also inappropriately. Some problems include: Children who have been abused cannot access support or specialist treatment in institutions; children with disabilities can be placed in institutions where they have no access to trained staff or to resources for particular needs.

3.3 Institutional Facilities

The quality of the facilities in institutions was variable but on the whole the state sector was very poor whilst there were considerable variations in the voluntary sector. The study also looked at the provision of beds, linen, mosquito nets, etc. There were a few children's institutions which did not provide beds for children, and quite a few that did not have adequate beds, with some children sharing beds or sleeping on the floor. In the North-East province, the situation was particularly poor with 38% of the institutions not having beds for the children. In those institutions

¹ This does not include institutions for children with disabilities, which the Department of Social Services records at around 48 for the entire country. But even with this figure, the official all-island figures are less than the number of institutions identified in the research for the four provinces.

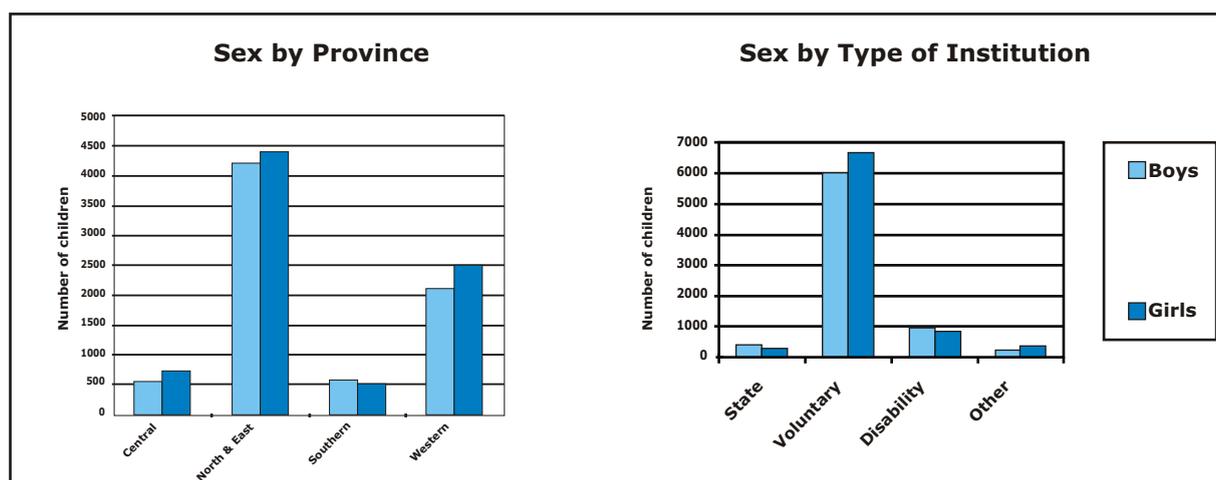
that had beds for children, only 49.4% were felt to be adequate. Children's institutions had not paid much attention to children's need for play. 25% of institutions in the Western province, 55% in the Southern, 54% in the North-East and 40% in the Central province did not have garden space for the children to play. Many of the institutions that did have space for the children to play did not have sports facilities. Most institutions did not even have indoor games. With regard to counselling services, 49% children's institutions in the Western province, 26% in the Southern province, 62% in the North-East province and 64% in the Central province reportedly provided services. A fact that stands out is that in the state-run institutions, only 16% have reported counselling services. The standard and quality of counselling was questionable.

3.4 Children in Institutions

While official data for 2002 indicated that 11,500 children were formally registered in institutions (excluding institution for children with disability), the research study found as many as 15,068 children in institutions in the four provinces under study alone.

The number of children by gender and province are shown in figure 3.1. This shows that just over half (52.2%) of the children in institutions are girls. The Southern province is exceptional in having a slight majority of boys. The percentage of girls is as follows: in the Western province 54%; in the Southern province 45.4%; in the Central province 57.6% and in the North-East 51.2%. Overall, boys outnumbered girls in state institutions but there were more girls than boys in the larger voluntary sector. This difference may reflect boys being admitted to state institutions for reasons of their contact with the law while girls are in voluntary institutions in greater numbers perhaps due to the perceived protection provided by them.

Figure 3.1 Sex of Children by Province and Type of Institution



Most children in institutions were aged between 11 and 18 followed by a large group of 5-10 year olds. The remainder is made up of a small group of children aged under 5 years old and a group aged over 18. This latter group was because institutions had no systematic mechanisms through which to re-integrate children into society. This number was particularly high in the North-East province, where there were 284 boys and 232 girls over 18 in the institutions.

Figure 3.2 (below) shows the age distribution by province. However it should be noted that this distribution is of children in institutions and does not necessarily represent the province in which the children lived prior to entry to care.

Although it is a small group, the under-5-year-olds in institutions represent a serious problem. Children of this age are at much higher risk of damage such as developmental delay if they are deprived of family care and should be placed with families wherever possible. In countries such as the United Kingdom there are almost no children of this age in institutions and children who need to be in care are instead fostered.

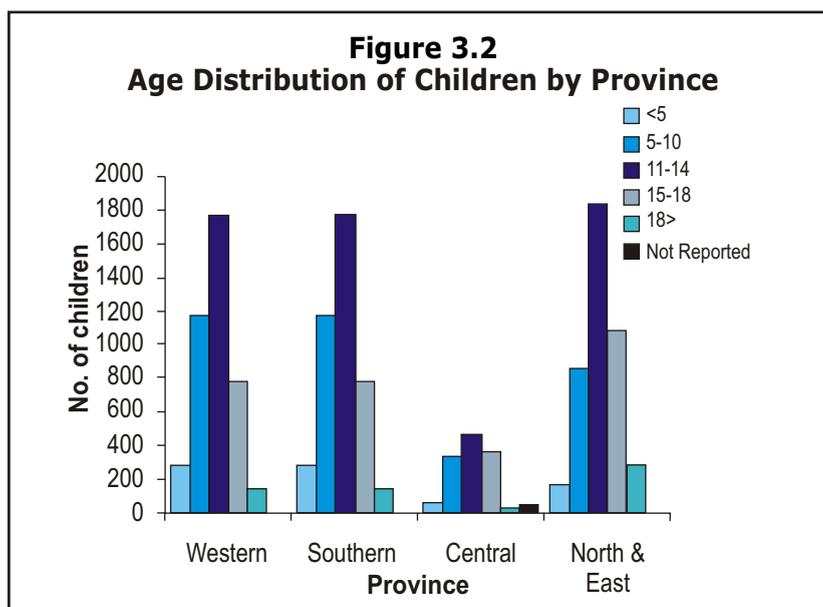
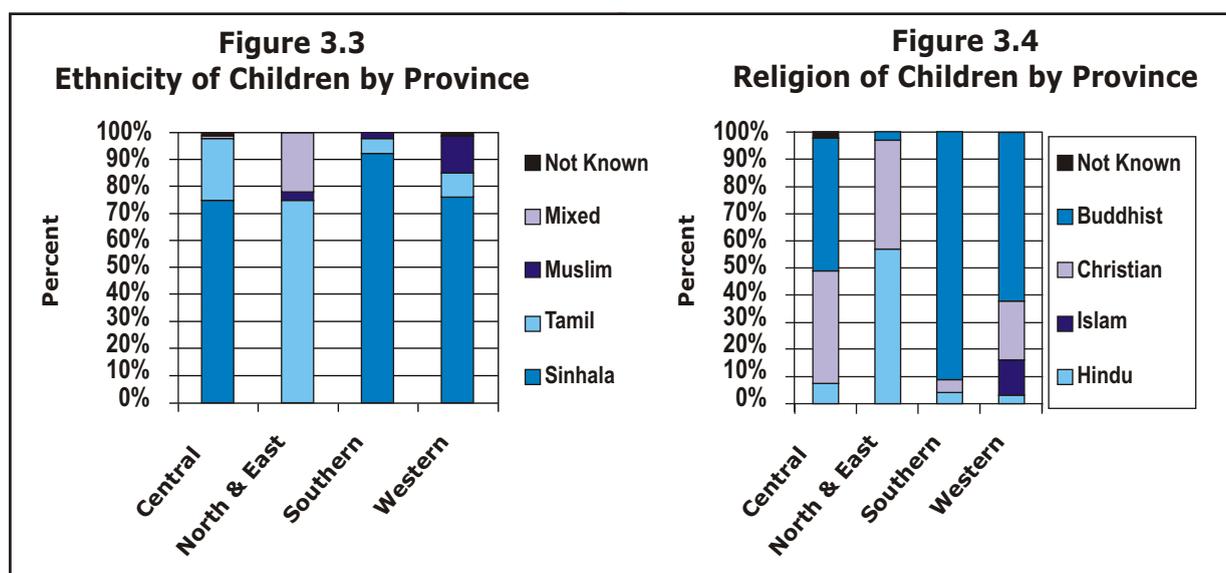


Figure 3.3 shows the distribution of children by ethnicity and **figure 3.4** shows the religion in the different provinces. Again children placed in a province may not originate from that province.



3.5 Distance

Data from the Southern and Western provinces reflect that a large proportion of children were placed outside the province (see table 3.3) due to lack of placements in the province: in the Southern province 36% of children in institutions are from outside the province; in the Western province 31% are from outside. Similarly in the North-East province children in conflict with the law were placed in the south of the country. Where children are placed away from their home and communities they may be unsupported in speaking their own language and practising their own religion, especially where the majority language and faith is different to their own. Such lack of support contravenes articles 20 and 30 of the UNCRC. Those children who were placed far from their families and communities found difficulties in maintaining contact with them. Not all homes encouraged parental and family contact, some positively discouraged it which contravenes UNCRC article 9. Many children were not able to have contact with friends from their home community which influenced their sense of connectedness to people and place.

Table 3.3 Child's Place of Origin by Province

Province	Within the Province		Outside the Province		Total	
	Total	%	Total	%	Total	%
Southern	262	64%	146	36%	408	100%
Western	786	69%	354	31%	1140	100%

3.6 Length of Stay

Despite the policy of the DPCC that children should not remain in institutions for over three years 36.7% of children in voluntary institutions in the Southern province were resident for more than three years. A much higher number, 50.3% of children in the Western province came under this category and in the North-East province 33.7% of the children were institutionalised for more than three years. In the Western and Southern provinces, it appeared that children who stayed for long periods were often moved from one institution to another, particularly in state-run homes.

3.7 Regimes

Regimented routines were found in the majority of institutions and corporal punishment was detected in some of them. Children's social interactions were often limited to those with other children in the home or at the local school they attended: wider socialising was not encouraged. Some homes did not permit parents to take children home for vacations and in others staff limited and controlled parental and family contact by visits, phone or letter.

3.8 Discussion and Best Practice Within Institutions

A combination of distance from family and regimes which limited children's social contact within the local community of placement, also impacts on children's ability to

re-integrate into society after institutional care. Many children have remained in institutional care for longer than was necessary: on average around 40% of children had been institutionalised for more than the stipulated maximum period of 3 years. The start of any institutional placement needs to be the start of planning for return home and re-integration into the child's home community. In the small number of cases where this is not feasible permanent family care through placement with extended family (sometimes called kinship fostering) or adoption should be sought.

3.8.1. Good Practices in Sri Lanka

In one home in the Southern province, children experienced a regime less strict than many and were able to share feelings and personal difficulties with a senior staff member.

Family-like care was provided in small groups in separate cottages, with caregivers designated as 'mothers', as though they were truly in the place of parents. Good practices such as this were rare.

3.8.2. Examples of Good International Practice

Examples of good international practice in Italy, Spain, Argentina, Chile and Uruguay are found in a report prepared by the Innocenti Research Centre and UNICEF (2003). Working across five nations the researchers found that policies to discourage institutionalisation are insufficient by themselves: One solution was to involve parents and families in community-based programmes to help develop children's well-being. UNICEF summarise the key changes in Italy and Spain as follows:

"The most powerful changes which have occurred in local social work, as part of the rights-based approach to children, relate mainly to the replacement of vertical management schemes by horizontal coordination and networking; the use of comprehensive and participatory assessments based on family resources and capabilities instead of family deficiencies; the notion of users of services as actively involved in their development rather than being passive recipients of aid; the exercising of shared responsibility by those involved in providing a comprehensive supply of services in replacement of the system where users were shunted from one unconnected programme to another." (UNICEF 2003:ix)

4. Entry to Institutional Care

"I want to go home. I want to be with my parents and sisters and live happily".

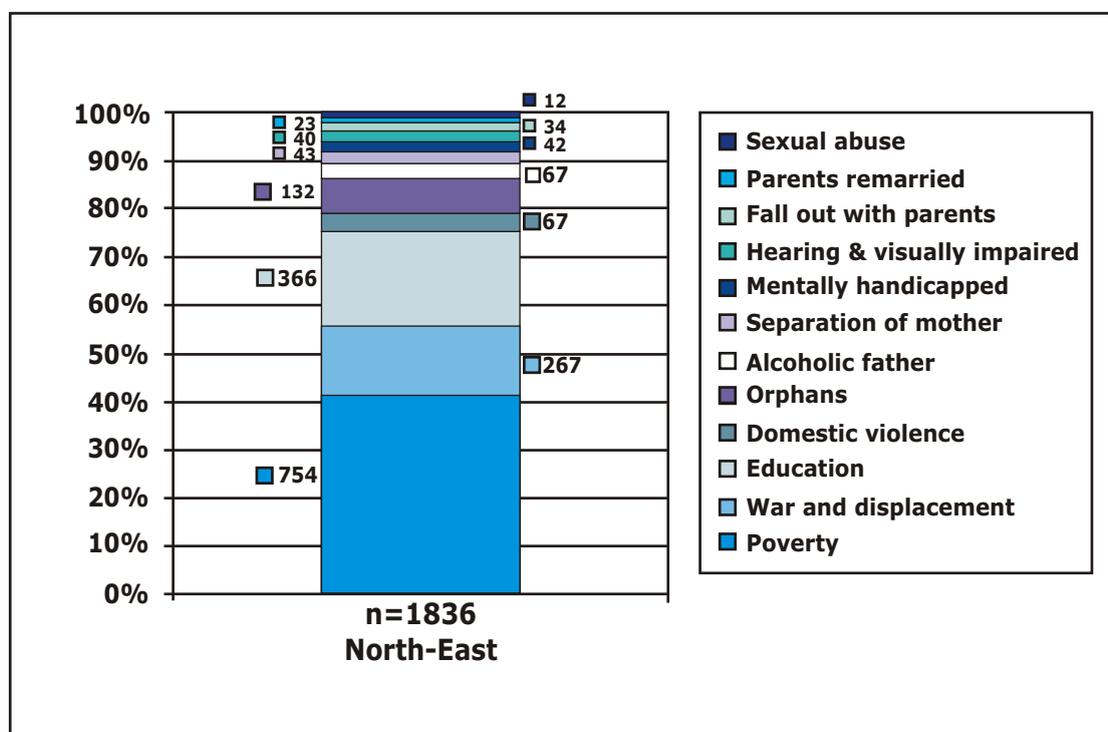
"At home on certain days we do not get to eat. I get everything here. I like to go home for vacations".

This chapter considers the reasons children entered institutions and subsequently examines the use of alternatives to institutions². Despite some examples of innovative practice the study found that only limited use was made of alternatives to institutional care.

4.1 Reasons for Entry to Institutions

The research discovered a wide range of reasons for institutionalisation, although frequently there was not one single cause to be identified. Causes included: lack of material resources and associated economic issues; parents experiencing difficulties in their own relationships; parents struggling with one or more addictions; loss of parents through death or illness; parents migrating to find paid employment; parents placing their children and then visiting infrequently. In the North- East one of the main reasons for institutionalisation was found to be parents' wish to provide good education for their children, including for children with special needs.

Figure 4.1. Causes of Institutionalisation in North-East Province



² Data could not be collected in most institutions in the Central province due to the lack of permission.

Figure 4.2. Causes of Institutionalisation in Western and Southern Provinces

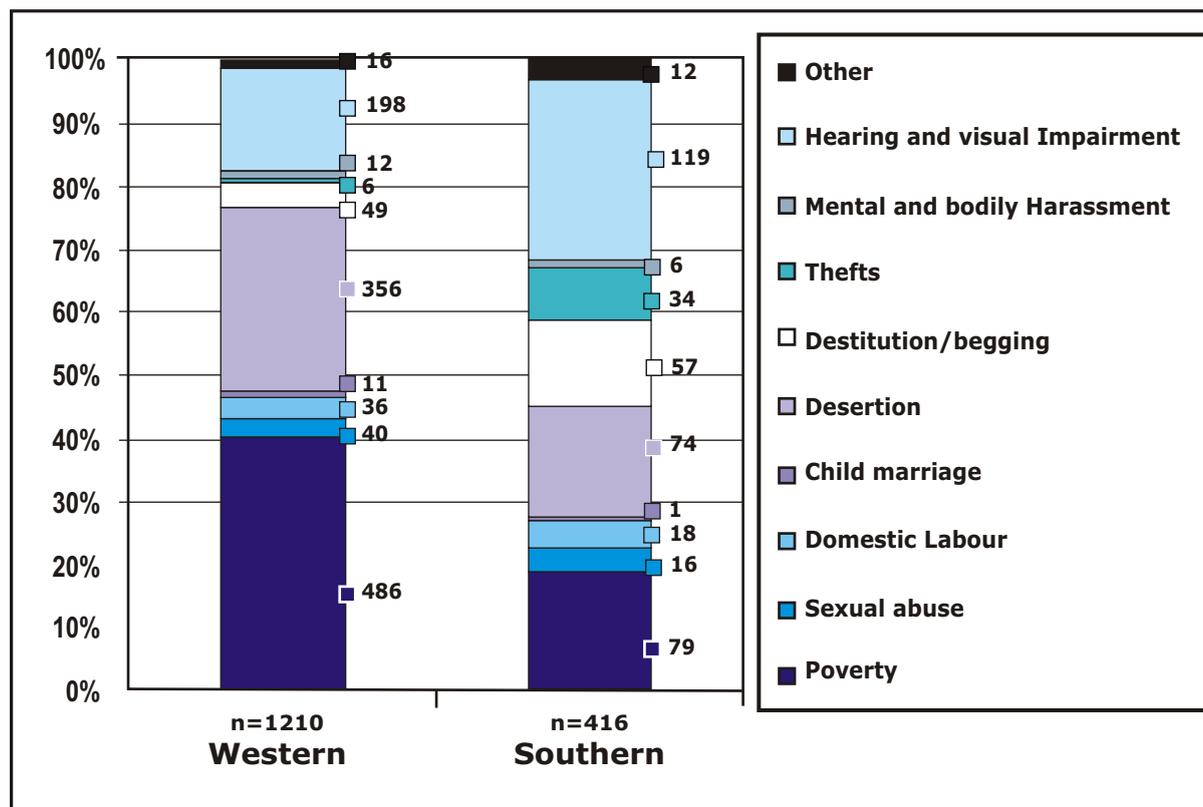
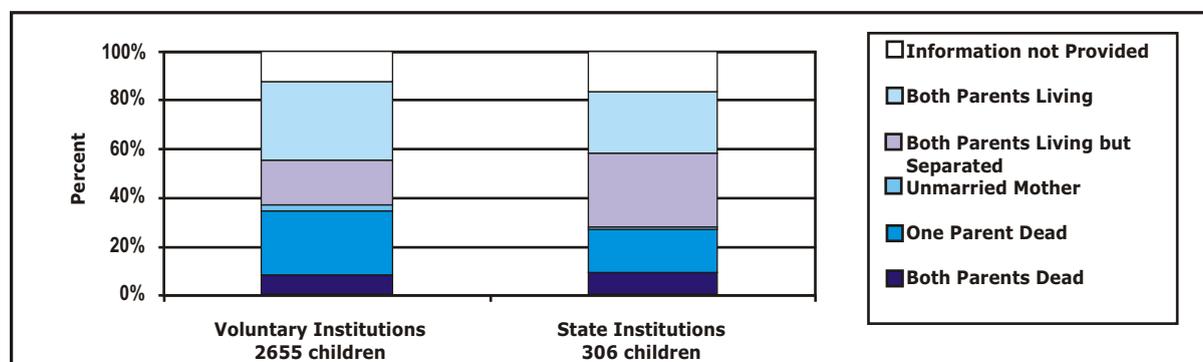


Figure 4.3. Status of Parents of Children in Institutions.



The study found that children entering care were not orphans for the most part. Contrary to the popular opinion that children entering voluntary institutions are mainly orphans, only 8% were recorded as having both parents dead in voluntary institutions. 50% had both parents alive but separated in 18% of the cases, and 29% had one parent alive (including single mothers). A similar picture was found in state institutions³. In fact poverty was the main cause mentioned in the files of children being mentioned in over half the cases (see figures 4.1 and 4.2). However, it must be noted that even in state run institutions, or where other reasons were recorded, poverty was a major contributing factor for children being institutionalised, since all the children were from low income families.

³ No information was collected in 13% of the institutions.

Institutionalisation also occurred where children had been subject to sexual abuse. Removal of the abused child from their family was sometimes seen as the only possible response, but the implications of this for the child were not considered. The child might be safer in an institution, but their needs for care and support might not be met. Nor can it be assumed that the institutionalisation of the one child is a help to the family, which might, for example, have other children who are vulnerable on the same grounds.

Finally, many children in state institutions entered because of conflict with the law. This included many children held for unacceptably long periods having committed minor offences often because of delays in the criminal justice system.

4. 2 A Range of Services

A key aspect of prevention of entry to institutional care is to have a range of services in the community to support families and children [UNCRC Article 18(2)] where there is a risk of entry to care. A range of placements [UNCRC Article 20(3)] is also required to ensure that children deprived of parental care have the right to be brought up in a family environment. This should include, but not be limited to, foster placement, kafalah of Islamic law.

4.2.1. Community-based support

The government has taken a number of initiatives to provide support for families of children in the community. These include parole for children in conflict with the law. There is also a range of sponsorship schemes to support families through providing income support including Kepakaru Mapiya Scheme; Sevana Sarana Fund, Sisu Nena Kirana, schemes for families with twins and triplets, and a range of social welfare programmes including poverty alleviation programmes, nutrition support programmes, and medical support programmes for vulnerable families. Similarly under a state programme, families with children with disabilities are entitled to a monthly grant as well as aids to daily living such as hearing aids and wheelchairs.

4.2.2. A range of alternative placement

The study found that alternatives to institutional placement are limited and appear to be underused. Fostering is available through the Fit Persons Scheme where a child is placed on a supervision order to a "fit person" following a court report and hearing. Again, fostering represents an administrative disincentive, since placement of children in institutional care is far simpler.

Adoption can be a resort where all other temporary placement options are not viable. National adoptions had increased (from 407 in 1991 to 827 in 2002 [DPCC 2002]) but by less than the fall in international adoptions (from 798 to 55 [DPCC 2002]). It was found that adoption was viewed with suspicion, and probation officers said that adoptive parents wanted pretty, fair, healthy babies. However, there was a waiting list and delays for national adoption and this might be a factor in the low use of national adoption.

4.3 Discussion and Best Practices in Alternative Care

The study raises a number of problems in the use of community alternatives as follows: firstly they are not available in all areas of the country; secondly, there are problems for probation officers to access services because of bureaucratic obstacles; thirdly insufficient time is available for Probation Officers to assess alternatives; fourthly there is a lack of awareness regarding these alternatives and social welfare mechanisms among the community and service providers; and,

finally, alternatives are not promoted, as institutionalisation is accepted without debate as the only alternative available to families. There is also a specific problem in the North-East province, where many of the alternatives managed by the Central government were not implemented because CRPOs and probation officers were unaware of alternatives, probably because most of the documents and forms are available only in Sinhala.

4.3.1. Organisational culture

Among the findings of note is an organisational culture in which probation officers looked to institutional care as a first resort for children, rather than a last resort as departmental policy rightly requires. This militates against proper assessment of individual cases and the development of locally-based family centred services.

There is also a lack of knowledge about alternative provision that has been developed in other parts of the country, so there is an issue of good practice with children in other parts of the country not being shared amongst staff who need that knowledge.

4.3.2. Good practice examples in Sri Lanka

There are a number of examples of good practice in Sri Lanka including:

- A pilot project conducted by the DPCC in Matara District, southern province where community strengthening through income generation, infrastructure development and day care services was carried out to prevent the risk of institutionalisation due to poverty-related causes.
- A programme for community based rehabilitation for the disabled is conducted by volunteers in the community who train a family member to provide care and rehabilitation along with referral to the closest educational establishment for special education.
- In the East, the Eastern Self Reliant Community-Awakening Organisation (ESCO) provides community based care for children separated by the conflict, supporting them to remain within their families and communities.
- Plan International has income generation programmes for families with children at risk of institutionalisation. Nest tries to link with institutions to support links with families and to encourage children to return to their families. They also link with probation officers to support alternative arrangements to institutionalisation for children in need of care and protection.

4.3.3. International good practice resources

There are a number of resources on policies and practices which are briefly outlined below and reference to readily available materials is given:

- The UNICEF and World Bank initiative *Changing Minds Policies and Lives* developed toolkits for governments wishing to reform child care services. The gatekeeping toolkit (Bilson and Harwin 2003) gives an international review of this approach intended to effectively ration scarce child care resources and ensure the focus is on the needs of individual children. The tools include examples of legislation, planning processes for community services, information systems and practice examples.
- In his paper *Community Based Care for Separated Children* David Tolfree (2002) outlines the negative impact of institutional care before looking in detail at community based prevention and alternative care placements.
- In the development of community based approaches a key issue is to stimulate self-help in the local community. Nayar *et al's* (2004) paper *Self-help: What future role in health care for low and middle-income countries?* provides an overview on self help movements and their applicability to health care development in Southern Asia.

- The development of foster care is a key issue for children in Sri Lanka. Shanti *et al* (2003) give an international overview on approaches to foster care. They stress the need for informal or 'social network foster care.'
- Save the Children's position paper (2003) *A Last Resort: The Growing Concern about Children in Residential Care* contributes significantly to knowledge and policy development.
- Save the Children UK's forthcoming document *Facing the Crisis: Supporting Children through Positive Care Options* (2005), First Resort Series, No. 1, elaborates on community-based care and best practices worldwide.

5. Quality of Care

"I want to fast during Ramazan time and worship Allah"

"I receive everthing here. But I value my parents and sister's and brothers' love and affection. It may be because of sins committed in my previous birth that I do not get their love"

Standards of quality for children's homes have been categorised as relating to environmental issues and those relating to quality of life (Bilson and Gottestam 2003). This chapter will look at the study findings in each of these areas in turn before looking at examples of good practice in institutional care found by the study.

5.1 Environment

The quality of physical care in institutions was inconsistent in voluntary homes and, with a few notable exceptions, conditions for children in state-run institutions were extremely poor. In addition to overcrowding, in many state institutions there was poor sanitation and inadequate supplies of basic necessities such as water, soap and toothpaste (leading to skin diseases); inadequate sleeping arrangements - some children slept on cement floors in the cold or in damp corridors in the rain; lack of clothing and of a nutritious diet. Conditions in voluntary homes were more variable with examples of good practice alongside poor conditions similar to those in the state institutions. Of the homes in the North-East, 38% did not have beds for children and, where beds were provided, only 49.5% of children thought they were adequate.

The study used the prescribed common standards for voluntary institutions as a basis for measuring the performance of all homes in the study. Examples of poor quality physical care included: lack of a balanced, varied and nutritious diet that regularly included protein, fruit or vegetables; insufficient, poor-quality, unattractive and unfashionable clothing; less than the minimum requirements in relation to sleeping arrangements, bedding and storage for children's belongings; poor sanitation leading to poor hygiene. Children in state institutions did not receive prompt or proper medical care when sick: children felt that staff assumed they were faking it. In some voluntary homes medical care was more forthcoming. However, hospital visits would result in children being identified as being from an institution which many found upsetting. Sometimes children were expected to care for sick children. In general children with disabilities were responded to more speedily, but they did not always receive regular assessments of specific conditions such as impaired hearing or vision. In the North-East, where the effects of war have resulted in greater numbers of children with disabilities, there was a lack of appropriate facilities and equipment for their specialist treatment and a lack of trained and qualified staff.

Other quality of care issues covered by the standards and addressed by the research included access to education; to opportunities for sport, recreation and leisure; to feeling secure in their surroundings.

Education was not provided consistently and to a high standard throughout the institutions surveyed. Although children in state-run homes attended school, there was no provision of library facilities or of an environment suitable for learning.

Children often did not attend school either due to concern about being labelled; or because they were placed with children younger than themselves; or for lack of access to schools due to prejudice. Children in voluntary homes fared much better, attending schools in the community and getting support for study. Children with disabilities faced many difficulties in some schools not having properly qualified and trained teachers or specialist equipment. Children in both state-run and voluntary homes thought that the vocational training provided did not fit students for the modern world: they specifically wanted training in information technology.

Opportunities and resources for sport and leisure were not provided consistently in either state homes or voluntary institutions. In the Western province there were no play areas in 25% of institutions; in the Southern and North-East province the percentage of institutions without play areas were 58% and 54% respectively and the percentage without play areas in the Central province was 40%. In institutions for children with disabilities there were more opportunities for both sport and leisure, although sometimes there was a lack of equipment.

The lack of proper sleeping facilities which resulted in children having to sleep in corridors or outside is a factor in some children feeling insecure and unsafe. Children in state-run homes did not have individual storage for clothes and other possessions, resulting in instances of theft and feelings of invasion of privacy and individuality.

5.2 Quality of Life

Particularly in state-run institutions, lack of privacy and lack of safety were experienced by children who did not have adequate and safe storage facilities for their belongings. Children experienced feelings of lack of privacy and individuality in relation to some of the regimes, in part also to lack of access to attractive individual clothes. Children experienced scolding instead of care and attention when they were sick.

Many children expressed longing for more consistent relationships with their caregivers in the institutions. Their loneliness at being separated from family and friends (which was not always acknowledged) would have been lifted slightly by experiences of consistent trust and support in the institutions.

Children's records were not kept in any methodical way and one of the clearest gaps observed was the lack of proper documentation about the reasons for a child to be placed in an institution. There was no evidence of any planning on children's care or development, or any system of monitoring the progress or well being of a child while in institutional care.

Children who had been abused did not receive specialist care and support from staff, despite the numbers of girls (31%) in certified schools who are victims of abuse. Counselling services were available in only 16% of state institutions, and overall, in 49% of institutions in the Western province; 26% in the Southern province; 64% in the Central province and 62% in the North-East province. There was very little acknowledgement that children who are in trouble with the law may also have been victims of abuse and need support for those experiences.

Corporal punishment and sometimes cruel treatment was used in some cases. The case study of Suthan given below illustrates this and shows a deep lack of understanding of the needs and difficulties of this child by the institution's warden.

Due to rigid regimes (above at 3.4) children had no part in the running of any institutions and very little input into decisions that affected them. The study showed that children clearly felt the lack of a sense of participation, individuality and choice. Developing a sense of personality, character and individuality is crucial for children's development and sense of well being, as well as for strengthening self-confidence and self-esteem. It did not appear that institutional care for children could provide an appropriate environment in this regard.

All of this strengthens the impression, found in the research report, of children in institutions as a group who are not listened to or taken seriously.

Suthan

Suthan is 11 years old and remembers being beaten by the warden of the institution. One day, when he went to the dormitory to change his clothes after having bathed, he found a purse near the bedside. His friend was curious about what was inside it. They checked inside and found some money. After some time, his friend asked Suthan's consent to take a 100 rupee note. Since there were 1000 rupee notes and 500's, Suthan took it out with no hesitation, gave his friend 500 rupees and kept the rest of the money with him. He hid that amount under the soil, near the toilet.

It was a Saturday and there was no school. The cook, after having cooked the lunch, started shouting saying his purse was lost. All the children were asked to gather by the warden. The warden asked them to tell the truth about who had taken the money. Eleven children who were in the institution at the time were taken by the warden who started beating them. The beating went on for three hours and the meals were not provided that day. Suthan wanted to tell the truth but his friend stopped him. Then, the warden released four children and continued beating the others with a Palmyra log. Unable to stand the severe beating Suthan finally admitted to having taken the purse. He was given five green chillies to eat as punishment. He was asked to remove his shorts and his bottom was heated. The warden further told him that he was going to be thrown out of the institution. He was taken to the manager who told the warden to keep Suthan in the institution since he had already been punished.

The manager made inquiries regarding Suthan's background from his mother, who told him about the death of his father and brother. She told him that Suthan used to have a habit of hiding money in the soil because of his father. According to his mother, his father used to drink a lot, and to save money, his mother used to ask Suthan to hide money somewhere and he used to do that by hiding it in the soil. After having heard this, the manager consoled Suthan and made arrangements for him to go back to the institution

Three of the 11 children who were beaten were sent home after an incident during which they tried to take revenge on the warden. Suthan feels guilty about that, because, he feels that everything that happened was his fault. He is worried about the other children. He is still in the same institution

This case history demonstrates that the managers and the wardens of the children's institution should have a clear understanding about each and every child's back ground. It shows the kind of cruelty children are subjected to in some institutions.

5.3 Standards

Currently, quality standards are available for voluntary institutions and not for state institutions despite conditions generally being far worse in the latter. In addition there is no system of ongoing monitoring and registration carried out by the DPCC, which depended on the institutions to provide protection and care for children. They were thus reluctant to be too severe with the children's institutions.

The quality standards provided for voluntary institutions have many good elements particularly in relation to the environment of the home. *However many aspects of standards relating to the child's quality of life were absent.* The minimum standards should specifically focus on admission criteria, care plans, and promoting regular contact with children and their families. There should also be a focus on children's needs for privacy, integrity, and freedom expressed by children during the research.

5.4 Discussion and Best Practices in Quality of Care

The study raises a number of issues about the quality of physical and emotional care in institutional settings. Institutions lack the material resources to provide basic necessities for the children in them and this is compounded by the attitudes of some staff that children are not to be listened to or be taken seriously.

5.4.1. Good practice examples in Sri Lanka

It is a sad reflection of the quality of care in institutions that the study struggled to find examples of good practices in the institutions. Many of the good practices identified were because of individual initiatives, so sustainability was not ensured. Some examples of good practices that were observed in a small number of institutions during the course of this study include:

- Parents visiting their children were allowed to go out to nearby shops etc. Some institutions also provided overnight accommodation to encourage parents to visit.
- Child centred routines; for example, when children came home from school, they could go straight to the kitchen and help themselves to food if they were hungry.
- Mixing between caregivers' children and the children in the institutions with no differentiation made between the children
- Promotion of Education: efforts made to ensure children were sent to good schools, extra classes provided and time made for education activities.
- Good vocational training facilities including finding job placements with companies to ensure the children had secure income generation opportunities once they left the institution.

5.4.2. International good practice and resources

There are a number of resources on policies and practices in quality of care which are briefly outlined below and reference to readily available material given:

- The UNICEF and World Bank Initiative *Changing Minds, Policies and Lives* developed toolkits for governments wishing to reform childcare services. The standards toolkit (Bilson and Gotestam, 2003) gives an international review of approaches to setting, monitoring and improving standards in children's services. The tools include examples of legislation, processes for developing standards, standards from different countries and regulatory mechanisms.

- The National Childcare Accreditation Council in Australia has developed a system of self and peer assessment as part of the monitoring standards in a range of day care centres for children. The standards and documentation of the process provide a useful framework for improving standards in children's services (see <http://www.ncac.gov.au/>) for substantial documentation and guidance.
- For over 25 years Professor Sonia Jackson and colleagues in the UK have been researching the experiences of education at school for children living in institutional care (Jackson, 1987; 2001). The UK Select Committee on Health (1998) in its research found that between 50% and 75% of young people leaving care had no academic qualifications. Due to research such as this, both the academic and the emotional significance of good education for children in institutional care is beginning to be recognised and be taken seriously, in the UK and elsewhere.
- Researchers in the Innocenti Centre/UNICEF Research Study (2003) in Italy, Spain, Argentina, Chile and Uruguay found that children fared better with support for themselves and their families in the community than in institutional care.

6. Child and Family Participation

"My home is far away. Therefore my mother cannot come to see me. Here we do not have any one to tell our sorrow. Even at a time of sickness when we tell they scold us. My father and mother are not like that"

Many children and their parents did not have regular contact with one another and children lacked contact with their home, community and friends. There was a lack of planning for children returning home and being re-integrated into their communities, which resulted in some children feeling apprehensive when they left the institution. Children had no part in the running of any institutions and very little input into decisions that affected them.

6.1 Discussion and Good Practices on Child and Family Participation

The study raises a number of points on the issue of participation of families and children themselves in their welfare and protection. In traditional Sri Lankan society, close relatives support each other at times of crisis. Religious institutions and traditional landowners also play a role. Any new approaches need to support and re-establish this family and community basis for support for children.

In order for children in institutional care to remain in contact with their parents and families, resources to assist this process are needed. Children and parents cannot visit or stay with one another unless there is money for fares and room to stay. In addition, parents need to be encouraged and feel welcome. Regular contact with parents for children in public care is found in article 9 of the UNCRC.

The study raises a number of points on the issue of participation. Children were, in the main, not involved in decisions about their own care or in the day to day running of the institution.

6.1.1. Good practices in Sri Lanka

Some examples of good practice in welcoming parents to institutions were found by the study:

- In some institutions, parents visiting their children were allowed to go out to nearby shops with their children.
- Some institutions also provided overnight accommodation to encourage parents to visit.

6.1.2. International good practice and resources

There are resources on policies and practices which are briefly outlined and refer to readily available materials given below: for example UNICEF and Innocenti Research Centre (2003)

- Family Group Conferences were developed first in New Zealand in the context of involving families in multi-agency conferences to discuss protecting a child or children from abuse. In New Zealand good practice developed from this so that, following an explanation from agency workers about their concerns, families themselves draw up the protection plan for the child or children and present it to the agency workers. This approach has been adopted by several local authorities in the UK (Wilcox *et al*, 1991)

- More recently (and also from New Zealand) Maxine Campbell (2005) has written about how children cannot be fully understood without an understanding of parents, both particular parents of particular children and the experience of parenthood in the present. Campbell's argument is one of many that currently (re)establishes the dynamic of children's and parents' connectedness.

7. Staffing

'If we had the good fortune to stay with our parents we will not have to face the scolding from others.'

Information about staff comes from two main sources, children and staff themselves. The report notes that the views of staff and those of children were completely different from one another, for example, some thought they provided basic services for the children, whereas the children felt they did not do so. There is a high turnover of staff, which means that children who need consistency of care and attention do not receive it. Staff are predominantly women in the institutions surveyed, apart from homes in the North-East province where the genders were divided equally. Many are not trained or qualified, although the researchers note that sensitivity and attitude are as important as training and qualifications in work with children. Pay for care staff is poor and the career prospects are not good. The researchers notes that a reasonable salary and a change in public perceptions of caregivers are both important the role of caregiver needs to be valued and professionalized.

Figure 7.1 Staff Salary structure

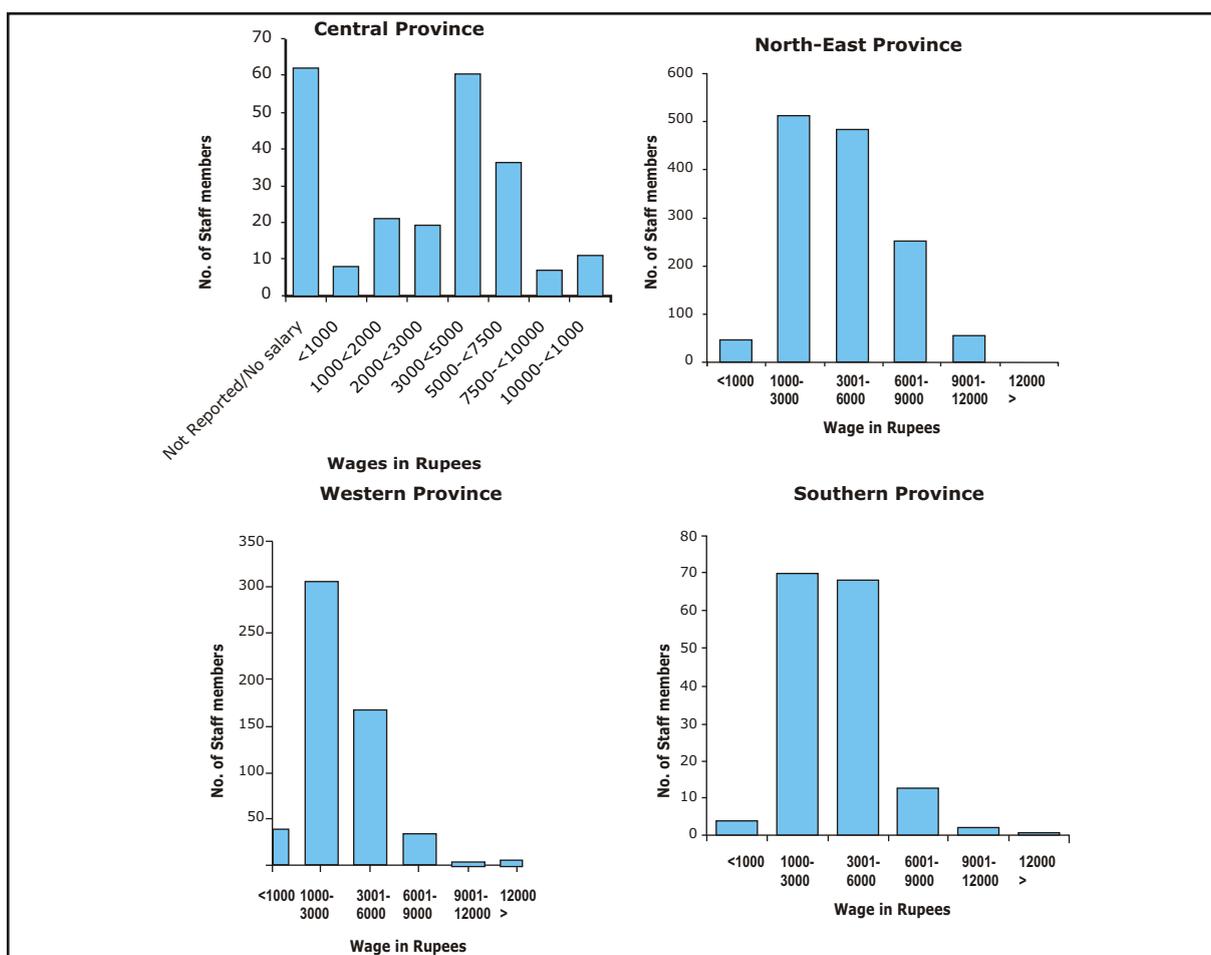
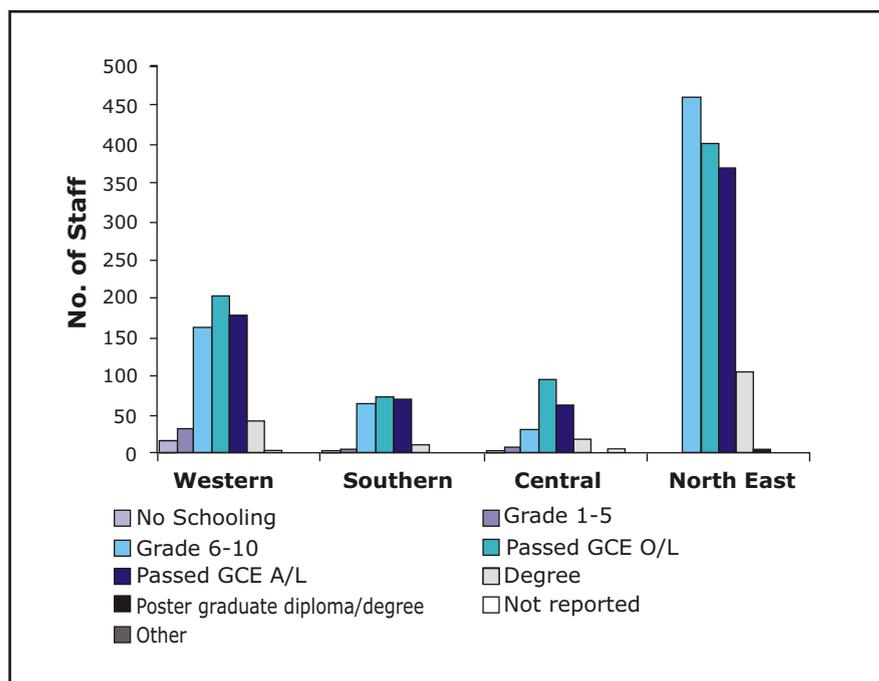


Figure 7.2 Educational Level of Institutional Staff by Province



The study found that many probation staff lack knowledge of alternative options to institutional care. Their numbers are low with the result that they cannot always complete basic tasks and have not sufficient time for others. There is no regular supervision or support for probation officers or caregivers.

7.1 Discussion and Best Practices of Institutional Care Staff

The researchers raise significant points concerning the work of caregivers in institutions and probation staff in Sri Lanka. The children interviewed emphasise the poor quality of care they receive from staff: staff themselves emphasise their low numbers which hinders effective work and their poor conditions of employment. The researchers note that the status of caregivers must be raised and their work rewarded appropriately.

7.1.1. Good staff practice examples in Sri Lanka

There is a comment from one child in an institution that her/his woman caregiver is like a mother to her/him and that because of her love she/he does not miss their own mother quite as much.

7.1.2. International good practice

In many nations of the world the issue of providing good quality, consistent care for children who are not living with their families is central to the development of child care and child protection policies. Two recent examples of research demonstrate this. Firstly, work by Hilweg and colleagues (2005) in Austria shows how caregiving staff in institutions can work with children and parents to develop quality standards in these settings. Secondly, work by Mason and Gibson (2005) reports on a collaborative project in which children in need of protection and care away from home were supported.

8. Recommendations

The recommendations are listed in Table 1 and this chapter will discuss steps for implementation. *First and foremost children should actively participate at all stages.*

1. Children should only be admitted to institutions where this is in their best interests

No child should be admitted to care unless it is in their best interests. Thorough assessment of the child and family's problems should be carried out. The system to monitor recommendations of probation officers should ensure that alternatives are properly considered and used.

Priorities for implementation:

Develop Comprehensive Admission Criteria: Criteria for admission to institutions have to be laid down more systematically to ensure that only those children most critically affected, and without alternatives are admitted to institutions.

Provide supervision and training of probation officers and a system to check recommendations. Reduce incentives to use institutional care: reduce bureaucracy for alternatives and consider schemes to transfer resources from institutional sector such as 'money follows the client' (see Fox and Gotestam, 2003).

2. Each child should have an individual care plan

Each child in care should have (and be involved along with parents in formulating) a written care plan that details their needs, outlines a strategy for the reunification or long-term placement options for the child, outlines arrangements for contact with parents and family, and describes the role of the programme and individuals in addressing those needs. The care plan should be regularly reviewed with involvement of the child, probation officer, carers, parents and other parties as required. The baseline must be that children should be involved in care plans and their wishes and feelings taken into account. Institutional care should always be the last resort and be temporary.

Priorities for implementation:

A copy of the care plan should be lodged at the institution. A system of monitoring compliance could be undertaken by CRPOs during regular monitoring visits to each institution

3. A range of services designed to meet locally assessed children's needs including:

- **A range of community-based services to prevent entry to care,**
- **A local range of alternative placements providing family based care,**
- **A range of local institutions suitable for temporary placement of children.**

The DPCC in each province should develop a plan for children's services across the province. This will require local plans to be developed in each district with relevant stakeholders including service providers (for example, local voluntary homes, representatives of education and health, grama niladhari and others), children,

parents, local community leaders. Representatives of staff currently working in institutions and trade unions should be part of the consultative process. A number of community-based support services already exist in different parts of Sri Lanka (see above) and the DPCC should build on these existing services where they are already in place. Useful advice from UNICEF (based on their experiences elsewhere) is the importance of strengthening existing systems which are 'weak but working'. Knowledge about existing services needs to be disseminated throughout Sri Lanka (translation assistance may be required).

Priorities for implementation:

A system of monitoring compliance could be undertaken by the NCPA.

4. Corporal punishment of children in care should be banned.

Article 37 of the UNCRC puts a duty on the state to ensure that children are not subject to cruel, inhuman or degrading treatment or punishment. Corporal punishment of children should therefore not happen in institutions which are caring for children, whether those institutions are state-run or voluntary.

Priorities for implementation:

Each institution should keep a written record of any use of punishments. A system of monitoring compliance could be undertaken by CRPOs during regular monitoring visits to each institution and by probation officers in their visits to children.

5. Institutions should allow children to have contact with children in local communities and encourage the use of community services.

Children should be able to participate fully in the life of the community which is local to the institution and be able to access community resources and activities for children as though they were permanent residents in the area. Staff need to establish such contact with local residents in the first instance and they must develop an affirmative attitude to children's involvement and promote such involvement. Access to and support for education at all levels should be facilitated by staff.

Priorities for implementation:

A system of monitoring compliance could be undertaken by the NCPA as part of its remit.

6. Standards covering the environment and quality of life of children should be developed and a comprehensive system of registration and monitoring implemented.

Firstly all institutions should be registered by the DPCC including state institutions. The DPCC should undertake a participative process to develop national minimum standards for institutions. These should build on the standards currently available for voluntary homes. However the quality of life standards should be strengthened. A system is required to independently monitor the quality of care on a regular basis.

Priorities for implementation:

The NCPA could be responsible for oversight of an independent registration and inspection system.

CRPOs could be designated to act as children's advocates and hold 'surgeries' in institutions: they could also register institutions and carry out inspections.

7. Systems should be set up to ensure children's views are heard particularly about

- a) Their care plan,**
- b) About their day to day care,**
- c) Complaints.**

Agreement must be reached on the manner of implementation of new systems (including a complaints system): such implementation must be overseen by a group that represents children, key agencies and stakeholders. There should be a children's advisory group in each institution, made up of children themselves apart from receiving homes for the under-5s where a small group of adults would take on this responsibility. Children in institutions should be allowed to see their care plans and records when they wish to. Children's views must be sought in all matters, as is set out in UNRC articles 9 and 12. Systems must take particular note of the needs of children with disabilities and children who are in trouble with the law.

Priorities for implementation:

CRPOs could monitor complaints and a complaints book should be held at each institution outlining the nature of any complaints and any action taken. Probation and institutional staff will require training in involving children in decision making (in the UK such training has been provided by children themselves with the support of child rights officers).

8. Planning and services need to ensure, support and promote the involvement of and continued contact with parents and family.

The organisational culture which fails to recognise the importance of maintaining children in their families and communities must be addressed through training for staff at all levels. Ongoing contact with parents and families is the responsibility of staff in the first instance. There is a need for regular reviews of care plans which involve children and their parents. Sharing of information is important: there must be clarity about which staff member has responsibility for co-ordinating and relaying existing and new information concerning the child and their family.

Priorities for implementation:

A formal system of case planning and review that involves children (having due regard to their age and understanding) and parents needs to be developed.

9. All institutions, probation offices and services working with children should have a staff development plan which covers assessment of staff training needs and skills, supervision, support and training.

Such a staff development plan should be initiated with each staff member as they are appointed to post and the plan would go with them if they move to work in another institution. It should be reviewed regularly as part of an ongoing appraisal/review process, mirroring the regular reviews that children will have. Training should be ongoing throughout their career and staff will be encouraged to take up training opportunities. Supervision and support should be offered to all staff on a regular basis and staff working with children who have been abused and their non-abusing family members should be offered additional support in their work.

Priorities for implementation:

National training on the UNCRC and its implications for children in care should be undertaken as soon as possible.

References and Resources

Bilson A., Harwin J. (2003) *Gatekeeping Services for Vulnerable Children and Families in the Changing Minds, Policies And Lives* UNICEF/World Bank series, UNICEF Innocenti Research Centre, Florence <http://www.unicef-icdc.org/publications/pdf/gatekeeping.pdf>

Bilson A., Gotestam R. (2003) *Improving Standards of Child Protection Services in the Changing Minds, Policies And Lives* UNICEF/World Bank series, UNICEF Innocenti Research Centre, Florence <http://www.unicef-icdc.org/publications/pdf/improving.pdf>

Bouvier O. (2000) *The Senegalese Reform Project on Alternatives to Imprisonment* Penal Reform International: London (source: http://www.penalreform.org/english/frset_art_en.htm accessed 25/07/05)

Campbell, M. (2005) Looking Up, Looking Down: Historical changes in the Parent/Child Nexus. Paper presented at Childhoods 2005 Conference: Children and Youth in Emerging and Transforming Societies, University of Oslo, Norway.
M. (2005) Looking Up, Looking Down: Historical changes in the Parent/Child Nexus. Paper presented at Childhoods 2005 Conference: Children and Youth in Emerging and Transforming Societies, University of Oslo, Norway.

Desmond C., Gow J. (2001) *The Cost-Effectiveness of Six Models of Care for Orphan and Vulnerable Children in South Africa* UNICEF, Pretoria

Fox L., Gotestam R. (2003) *Redirecting Resources to Community-Based Services in the Changing Minds, Policies And Lives* UNICEF/World Bank series, UNICEF Innocenti Research Centre, Florence <http://www.unicef-icdc.org/publications/pdf/redirecting.pdf>

Hilweg, W. & Posch, C. (2005) Quality4Children: Quality Standards in Out-of-Home Child Care Paper presented at Childhoods 2005 Conference: Children and Youth in Emerging and Transforming Societies, University of Oslo, Norway.

Jackson, S. (1987) *The Education of Children in Care*, Bristol Papers in Applied Social Studies, University of Bristol.

Jackson, S. (2001) (ed) *Nobody Ever Told Us School Mattered*, British Association of Fostering and Adoption Agencies (BAAF) London.

Mason, J. & Gibson, C. (2005) Towards new Childhoods for Children and young People in Out-of-Home Care. Paper presented at Childhoods 2005 Conference: Children and Youth in Emerging and Transforming Societies, University of Oslo, Norway.

Office of the United Nations High Commissioner for Human Rights (2003) *Consideration of Reports submitted by State Parties Under Article 44 of the Convention Concluding Observations: Sri Lanka*. <http://www.hri.ca/fortherecord2003/documentation/tbodies/crc-c-15-add207.htm>.

Save the Children (2003) *A Last Resort: The Growing Concern about Children in Residential Care*, London, UK.

Tolfree D. (2003) *Community Based Care for Separated Children* Save the Children Sweden, Stockholm
<http://www.rb.se/eng/Programme/Childrenandfamilies/withoutfamily/1415+Publications.htm>

Nayar KR, Kyobutungi C. and Razum O. (2004) "Self-help: What future role in health care for low and middle-income countries?" *International Journal for Equity in Health* 3:1 <http://www.equityhealthj.com/content/3/1/1>

UK Select Committee on Health (1998) *Care Outcomes (Section 133)*, Department of Health, London.

UNICEF and Innocenti Research Centre (2003) *Children in Institutions: The Beginning of the End? The Cases of Italy, Spain, Argentina, Chile and Uruguay*, Innocenti Research Centre, Florence.

Wilcox, R., Smith, D., Moore, J., Hewitt, A., Allan, G., Walker, H., Ropata, M., Monu, L. and Featherstone, T. (1991) *Family Decision-Making: Family Group Conference*, New Zealand.

Home Truths: Children's Rights in Institutional Care in Sri Lanka

The research project *Home Truths: Children's Rights in Institutional Care in Sri Lanka* was a predictable outcome of Save the Children in Sri Lanka's long-term concerns in Sri Lanka of children in residential care.

The study maps institutions in four provinces in Sri Lanka and studies the legal and policy frameworks governing the institutionalization of children. It identifies and analyses causal factors for institutionalization, examines quality of care within institutions, including, importantly, the links children have to family and community and the impact of these links to social reintegration.

The strongest testament to the inadequacy of even the best forms of institutional care is in the statements of children themselves. They unequivocally state their wish to be with families, even when the material support they receive may not be as good as those provided in the institutions. In the study, children speak out on the lack of love and affection, and the lack of privacy, dignity and individuality in institutional settings.

The study makes important recommendations on minimizing institutionalization, and making institutional settings as child-friendly as possible where they are the only option for some children.

Publication
Save the Children in Sri Lanka
58A Horton Place
Colombo 7

Tel: 00 94 11 2672668-74
Fax: 00 94 112672671/5
www.savethechildren.lk

