

A SNAPSHOT OF ALTERNATIVE CARE ARRANGEMENTS IN KAZAKHSTAN



Based on SOS Children's Villages' assessment of a state's implementation of the UN Guidelines for the Alternative Care of Children



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A loving home for every child

CONTENTS

Executive summary	4
Key findings	5
Recommendations	9
References	10
Glossary	11

Published in Austria by SOS Children's Villages International

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Background

In 2011, SOS Children's Villages International, along with child rights experts Nigel Cantwell and Prof. June Thoburn, developed an assessment tool¹ to measure a state's implementation of the UN Guidelines for the Alternative Care of Children. This tool is meant to be used as research foundation for countries participating in the SOS Children's Villages global advocacy campaign: *Care for ME! Quality Care for Every Child*.

The assessment tool is a long and complex diagnostic instrument. Undoubtedly, many states will not have sufficient data available to answer all the questions contained in the assessment and no single state will have implemented all the provisions for family support and alternative care as laid out in the UN Guidelines for the Alternative Care of Children. Nevertheless, SOS Children's Villages national associations were asked to complete as much of the tool as possible, given the available data in their country. The three main steps for completing the assessment are:

1. Desk research of existing secondary and meta data, from state, non-state and international sources;
2. Interviews with key service providers, service users and management; and
3. Compilation of the final report, including this summary.

A full version of the original data can be made available upon request. Requests can take up to 90 days to complete. Please contact Emmanuel.sherwin@sos-kd.org for further assistance and questions.

The target groups of this study are:

Children in alternative care: those children and young people who, for any number of reasons, live outside their biological family and are placed in formal or informal care arrangements such as residential care, SOS families, foster care or kinship care.

Children at risk of losing parental care: children whose families are in difficult circumstances and are at risk of breaking down. They may be experiencing any number of challenges including, but not exclusively: material poverty, substance abuse, poor parenting skills, disability and behavioural issues.

Next Steps

SOS Children's Villages calls on all states, civil society partners, inter-governmental agencies, human rights institutions and individuals to use the data contained in this report to defend the rights of children and families – to work together or individually to bring about a lasting change in a child's right to quality care. If possible, in each of the countries where the assessment was carried out, SOS Children's Villages, in cooperation with key partners, will initiate an advocacy campaign on one or more of the recommendations contained within the report. Please contact the SOS Children's Villages national office if you wish to know more, support or become involved in the campaign.

Disclaimer

While all reasonable efforts have been made to ensure the accuracy and legitimacy of the data in this report, SOS Children's Villages cannot be held liable for any inaccuracies, genuine or perceived, of the information retrieved and presented in this document. The purpose of this report is to offer an insight into the state's attitude and recourse to alternative care and any human rights violations therein. SOS Children's Villages will not assume responsibility for the consequences of the use of any information contained in the report, nor for any infringement of third-party intellectual property rights which may result from its use. In no event shall SOS Children's Villages be liable for any direct, indirect, special or incidental damage resulting from, arising out of or in connection with the use of the information.

¹ The original version of the tool can be found here: www.sos-childrensvillages.org/What-we-do/Child-Care/Quality-in-Care/Advocating-Quality-Care/Pages/Quality-care-assessment.aspx.

Executive summary

Note: The full report by the Sange Research Centre for SOS Children's Villages Kazakhstan provides a comprehensive overview of the situation of children in Kazakhstan and the numerous initiatives in place to care for children and protect their rights.

This summary provides just a snapshot of a few core issues that emerged from the research and provides some key recommendations for improvement of services focusing on the chapter seven of the report: *Review of Right Violations of Orphaned Children, Children DOPC² and Children in Difficult Life Situation*.

According to official data from the Children's Rights Protection Committee of the Ministry of Education and Science, in 2012 there were 19,500 children at risk of losing parental care, an increase of 2.2% from 2010.³ The main reasons for children at risk include a growth in the number of children born out of wedlock, social disorganisation of families, financial and housing difficulties, and unhealthy relationships between parents and children due to issues such as alcohol and drug addiction and cases of child abuse and neglect.

There are a number of laws to protect the interests of children without parental care, including the *Law on Child Rights* (2002), the *Code on Marriage (Matrimony) and Family* (2011), the *Law on Family Type Children's Villages and Youth Houses* (2000), and the *Law on the Ratification of the Convention on Child Protection and Collaboration in Respect of Foreign Adoption* (2010). According to this legislation,⁴ children have the right to be raised in their family and to know their parents, except in cases where it is not in their interests. The decision to separate children from their parents can be taken by a court, only in exceptional circumstances where it is necessary for the purposes of child protection. In these cases, to protect children without parental care, they are transferred into alternative care.

Parents may organise informal care for their children with extended family or friends without the decision of a court, but the government does not provide legislation or guidance for this. Children placed in formal care on the basis of a court order may be placed in orphanages (up to three years old), boarding schools for children who have been orphaned or deprived of parental care, boarding schools for children with disabilities, foster families, family-type children's villages, youth houses, centres for the adaptation of minors or asylums.

The research by the Sange Research Centre for SOS Children's Villages Kazakhstan found that the main issues relating to children's rights violations and weaknesses in the system included: lack of services to help prevent family breakdown and alleviate poverty; inadequate monitoring of alternative care; shortage of highly quality and well trained professionals; and insufficient and unsupported complaints mechanisms to protect children with grievances.

² Deprived of parental care.

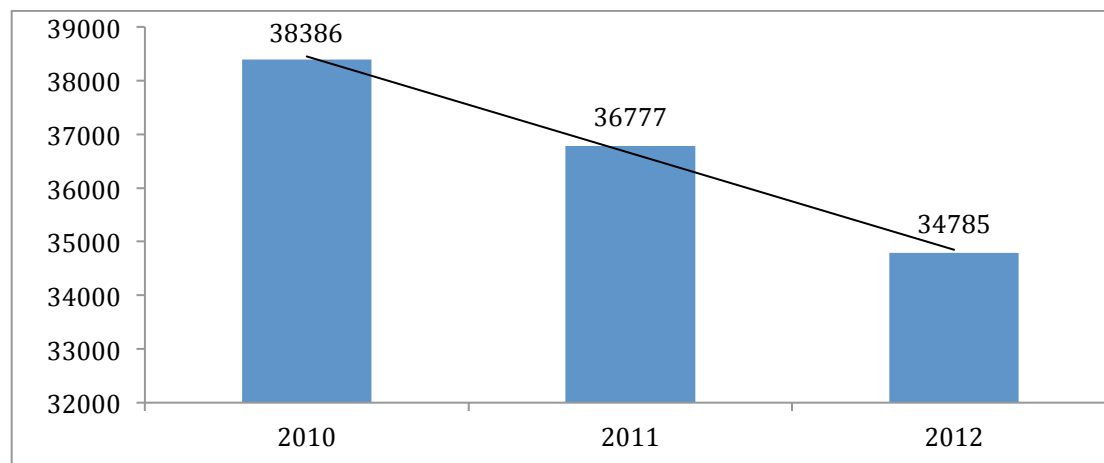
³ Annual Reports of the Ministry of Education and Science, Committee on the Protection of Children's Rights (2010, 2011, 2012).

⁴ In particular, the *Child Rights Law*, and the *Code on Marriage (Matrimony) and Family*.

Key findings

Between 2010 and 2012, there was a decline in the number of orphaned children and those deprived of parental care by 3,601 cases. In 2012, of the 34,785 children recorded 12,679 were orphans and the remaining 22,106 were children deprived of parental care.

Number of orphaned children and children deprived of parental care



Source: Ministry of Education and Science of the Republic of Kazakhstan, Committee on Protection of Children's Rights

Preventative services

As children have the right to be cared for by their families, services to prevent family breakdown are prescribed in national legislation.⁵ These provide for welfare payments and child allowances to assist the family, including additional payments for parents with disabled children. Other measures to prevent family breakdown include the promotion of family values and a gender equality strategy.⁶

There are a large number of professionals working on implementing measures to prevent family breakdown (where children and their biological parents live in difficult life situations and risk being separated): 3,675 social workers, 7,893 psychologists, 349 experts, 982 district police inspectors and 1,792 school inspectors.⁷ Despite this concentration of effort, the research found that the systematic collection of data on the reasons for family vulnerability and the dissemination of this data was inadequate for the creation of effective policy, affecting the quality of service provision and support available to vulnerable families.

⁵ The Law on Child Rights, the Law on Public Welfare Payments to Families with Children, the Law on the Introduction of Amendments and Additions to Some Legislative Acts of the Republic of Kazakhstan Concerning the Issues of Social Assistance of Certain Categories of Citizens 2010, and the Decree of the Government of the Republic of Kazakhstan, 6 August 2010, No.806, On Approval of the Draft of Master Operation Plan of the Government of the Republic of Kazakhstan and UN Child Fund for 2010-2015 Years.

⁶ State Programme "Children of Kazakhstan" and "On approval of the Gender Equality Strategy in the Republic of Kazakhstan for 2006-2016".

⁷ Children's Rights Protection Committee, *Statistical Book*, Astana: Ministry of Education and Science, 2012; and Statistic data of the MIA, 2012.

Furthermore, the research found that due to financial constraints services are unable to attract suitably qualified professionals, affecting the quality of services offered. The training offered to professionals is also inadequate: training programmes do not always reflect real needs and there is no prior consultation on what it should cover; many staff in non-state run organisations do not have access to the training; and teachers at training centres are also poorly qualified.

Families also experience problems with welfare benefits. For many households they are insufficient to cover the minimum needs of children, and there are concerns that the amount offered barely covers the costs of food. There are also complex procedures in place for obtaining them, requiring a large number of documents, including confirmation of disabilities for disability benefits and proof of low incomes for targeted social assistance.

Family support centres are meant to strengthen families by providing the necessary knowledge skills and tools to assist in looking after children. Families can access assistance from lawyers, psychologists and other professionals. However, they do not exist in all regions and so do not reach all families in need.

Children should only be removed from their families in exceptional cases, in order to protect them from harm. A court makes these decisions and families have the right to challenge them. However, evidence shows that disadvantaged parents rarely use this right of appeal and are not provided with adequate support or preventative measures.

Providing for children's best interests and monitoring services

According to the data the most common form of care in 2012 was wardship (62.5%): institutional care (31.3%) and foster care (6.2%).⁸ Children placed in alternative care, should be provided with the most suitable care available, and placement in a family environment should be considered before institutional care. Evidence suggests that although children have a right to participate in decisions made on their care, they are rarely consulted: they have no say in the institution to which they are placed or asked to participate in decisions when placements are changed. Although there is an annual review of care decisions, children are often not provided with individual care plans.

Sibling groups should be kept together wherever possible, but this presents challenges to placing children in family-based foster care, as not all foster parents are willing to take large groups. There are cases where children are separated, but efforts are usually made to retain contact between siblings.

The monitoring of different alternative care provision – educational institutions, services for disabled children, and children's homes (for children under three years old) – is regulated by different legislation. Monitoring is carried out in the form of inspections, both planned and unplanned. Regardless of the type of organisation, alternative care institutions are accredited every five years and licensed according to their competence. However, according to experts from the Ministry of Education and Science, the criteria under which institutions are assessed do not include meeting the requirements of the *UN Guidelines on Alternative Care of Children*.

⁸ Annual Report of the Ministry of Education and Science, Committee on Protection of the Children's Rights, 2012.

Poor monitoring, due to lack of resources and weak requirements, means alternative care is not always up to the adequate standards. Evidence suggests that there is lack of control over the quality of foster parents and staff at residential units. Although there are standards for the selection of foster carers to ensure that they are capable of caring for children adequately, the training provided to them is not regulated by law. There are requirements for the qualifications of staff at residential institutions,⁹ and personnel data is checked by the head of the organisation hiring the employee. However, training is poor and there are no norms concerning training personnel on issues relating to the improper treatment and exploitation of children.

Protection of children: violations and complaints

National policy provides for an open and unprejudiced complaints submission procedure. In each regional administration there are helplines and boxes for complaints. All the calls are registered and corresponding measures are taken on each complaint. The main tasks for helplines are to provide urgent psychological help for children and their carers and timely responses to concerns about maltreatment for the protection of children. In 2012, there were more than 11,000 appeals on children's rights to state bodies: 1,817 criminal cases were opened, and 1,186 people were subjected to administrative liability, including 760 parents. There were 299 inspections carried out in educational institutions on the basis of which 79 officers were subjected to administrative liability.¹⁰

If violations against children are found, then various measures should be taken up to and including assigning criminal liability.¹¹ However, there is no national administration for the protection of children against inhuman and improper treatment. There is evidence that children in residential care are subject to maltreatment, including abuse, confiscation of their property and in some cases are forced to work. Children may also be discriminated against due to HIV, their ethnic origin or disabilities, including infringements of their right to education. Although there are opportunities for children to make complaints, through helplines and in their alternative care placements, it is likely that children are afraid of the repercussions of making complaints, and so reporting of rights violations is low.

State policy in the field of children's rights protection in 2013

Below is a list of some of the main elements of state policy in the field of children's rights in 2013:

1. Assistance in taking measures to encourage the adoption of orphaned children and construction of family orphan asylums.
2. Decrease the number of pupils at orphan asylums. Further optimisation of the network of boarding schools for orphaned children.

⁹ Resolution No.77 of the Government of the Republic of Kazakhstan, January 30 2008; Order of Acting Minister of Education and Science of the Republic of Kazakhstan, 7 August 2013, No.323.

¹⁰ Report on Children in by the Ministry of Education and Science, 2012.

¹¹ Code on Marriage (Matrimony) and Family, Code on Administrative Offences, Criminal Code.

3. Introduction of the communication strategy model for prevention of risks from primary entry of children into the system of boarding schools, and to increase the network of foster parent schools and family support services.
4. Creation of the efficient system of adaptation of pupils of orphan asylums to independent life, by implementation of the "Life and Career Planning" project.
5. Assistance in execution of regional plans of actions for providing orphaned children and children without parental care with housing.
6. Development of efficient mechanisms for informing the population on prevention of abuse and violence against children under the information campaign "Childhood without violence and cruelty".

Recommendations

1. **Preventative services:** There should be adequate support to ensure that wherever possible children are able to live with their families. This includes providing families with access to services, increasing financial assistance and making processes easier to navigate.
2. **Data collection:** The government should endeavour to collect data on child and family vulnerabilities, so that appropriate support can be provided to prevent family breakdown.
3. **Monitoring:** The government should ensure that the authorities have the resources to adequately and frequently inspect and monitor alternative care.
4. **Professional training:** All alternative care professionals should be provided with adequate training, in particular in relation to avoiding child rights violations. The government should provide additional funding to ensure that highly qualified staff can be maintained.
5. **Complaints procedures:** Independent complaints procedures should be in place to encourage and support children to make complaints about alternative care services. They should be empowered to assist children in need and where necessary follow up allegations of rights violations with criminal sanctions.

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Glossary

Child without parental care	A child whose parents have proved incapable of caring for him/ her, either temporarily or permanently.
Orphan	A child who has lost one or both of his/ her parents.
Foster care	The form of upbringing when the child left without parental care is transferred for care to a family under a contract concluded by an authorised state body and a person (foster tutor) expressed a wish to take care of a child, caring for no more than three children, except in the interests of keeping sibling groups together.
Wardship	The establishment of custody over a child without parental care.
Orphanages for children from birth till three years	Residential care for children until the age of three years old.
Boarding school organisations for orphaned children and children deprived of parental care	Residential care for children over the age of three.
Boarding school houses for disabled	Residential care for children with mental disabilities.
Family type Children's Villages	Residential care in a family-type environment, caring for no more than 10 children.
Youth houses	Residential type of care which provides care support for young people when they are at the age of 16 and 23 years old. This care setting is supervised and controlled by the Children's Village. The aim of the youth house is social adaptation of young people ageing out of care.
Centres for adaptation of minors	Short-term care for children that are at risk to lose parental care. Tutelage and guardian department considers children as in short-term care until their status is approved (whether the custody over the children will be issued to biological parent or to the care givers of the alternative care settings).
Asylums for minor children	Long-term care for children with special needs authorised by the Ministry of Health.
Foster care	Family-based care of children.
Informal care	Kinship care arranged by the parents, not enforced by a court.
Formal care	All forms of care arranged and enforced by a court decision.

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