

INSTITUTIONALISATION OF SPECIAL NEEDS CHILDREN – THE IMPACT OF THE RUSSIA-UKRAINE WAR

Ramnath.V.Rao

Research Scholar TNDALU

Prof. K.S. Sarwani

Research Supervisor & Director, DDE, The Tamil Nadu Dr. Ambedkar Law University,
Chennai - 113

Abstract

Child institutionalisation is at the highest level in Ukraine when compared to other countries. Children with different forms of disabilities, sickness, development disorders and those from the deprived sections of the society are provided with institutional care by the Ukrainian Government. A mention about the genesis of childcare institutions in this nation can be traced back to the 17th century. During the 18th century, Tsar Peter the Great is credited with issuing decrees for the betterment of institutionalised children towards the development of the State. All the children were considered to be the children of the State after the October Revolution (1917) preceding the Bolsheviks success in the political arena. Adoption was outlawed and the State was keen on abandoning the family setup. It was determined on rearing the children as a state belonging. Makarenko's theory of personality development was the cornerstone of the education system of the entire Soviet Union. New Boarding schools (*internats*) known as the "Schools of the future" were introduced by N. Krushchev. The Soviet gave up on this system between 1960 and 1970. Nonetheless, the institutional care of orphaned children and special needs children is still the norm in the Ukrainian state.

Children in institutional care tend to be vulnerable during times like pandemic, wars and any other national or international calamities. In the conflict areas, the institutionalised children face exploitation and trafficking. In the year 2015, Disability Rights International exposed the various hardships faced by the children in the institutional care. The preamble of the Convention on the Rights of the Child clearly sets out that "... *All children should grow up in a family environment*". This is essential for the full and harmonious development of the child as set out in the convention. The study attempts to analyse the violations faced by the children in the institutional care, the need to promote the right to family life for all children with special reference to children with disabilities and analyse the different modes of deinstitutionalisation of child care.

Keywords: *Institutionalisation, Children with disabilities, Ukraine, Post-Soviet child care, right to family life*

Introduction

The Convention on the Rights of Persons with Disabilities (CRPD) defines living with a disability as having a long-term physical, mental, intellectual or sensory impairment that – in interaction with the environment – hinders one's participation in society on an equal basis with others. Scholars have argued that having a child with special needs is extremely stressful for

the parents as challenges faced are many (Turner, J. L. (1998)). The challenges include education, child care, employment and accessibility to amenities in life. The parents are forced to compromise in their participation at work (Booth, C. L., & Kelly, J. F. (1998) coupled with multiple appointments with the medical doctors (Scott, E. K. (2010)). A child needs academic support, community support, peer support and parental support for the overall development. A child with special needs has to be given extra care and accessibility in all walks of life that has to be guaranteed throughout his/her lifetime.

Childcare has been institutionalised in many countries like Ukraine, Russia, China, Chile and Ghana. Institutionalisation means a short term or long-term placement of a child in a setup other than a family. Poverty, family feuds, illness, disability and delayed development in children are various reasons for institutionalisation. Foster care and adoption are the other alternatives available in most of the developed countries. Though many countries have abolished this system of institutionalisation, Ukraine continues to provide childcare through its institutions. In this research paper the authors attempt to explain the concepts of institutionalization of special needs children and the right to family for children with disabilities.

Institutionalisation of Childcare

The children under institutional care around the world are close to around eight lakhs (Browne K). The children are either abandoned at birth or after which may be due to poverty or disability. Spitz, R. A. (1946) described such children to be extremely delayed and lethargic for lack of “mothering.” Similarly, Bowlby (1952), in a report to the World Health Organization, observed that most institutionalized children were extremely delayed in development because of the lack of stable and continuous attachment relationships with caregivers even when their physical needs were met.

History of Institutionalisation in Soviet Union

The first institutions of this kind dates back to Constantinople in 335 AD which was later seen during the days of communist era in the USSR. The Bolsheviks believed that social care has to be replaced with parental care for the betterment of the children. The right to look after the children by the parent was seen as a delegated right by the State. In the 1950’s Nikita Khrushchev introduced the new kind of State Boarding School. It was Ceausescu in Romania who introduced the pronatalist policies.

Romania:

After the Second World War, the Communists gained control over Romania and in the year 1965 Nicolai Ceausescu began to accelerate industrialization. He was known for promoting “systematization” wherein people were moved from their homes in the rural area to cities. His version of communism demanded that the workers are the fundamental units of the society and the many families lived together in one apartment. He further went a step ahead and through his series of pro-natalist policies encouraged childbirth to increase the birth rate, divorce rate was restricted, abortions and contraception were banned. He even introduced schemes providing financial incentives to parents giving birth to multiple children who were termed as “Heroine Mothers”. A childlessness tax of 30% was levied on all childless people above the age of 25. Therefore, it became the state’s responsibility to raise the increasing

number of children which was an outcome of the pro-natalist policy. To meet the requirement, the government-built institutions for the children without disabilities to emerge as “workers” for the nation. Children with disabilities were raised and on reaching adulthood transferred to other institutions for care.

With the collapse of the Ceaușescu regime in 1989, Romania and the rest of the world learned that there were roughly 170,000 children living in approximately 700 overcrowded institutions across Romania. It was estimated that between 2-4% of all Romanian children were living in institutions. The conditions of most of the institutions led to many organizations setting up humanitarian missions to assist the orphans in Romania, and the beginning of a surge in international adoptions from Romania in the early 1990s (P Stephenson, M Wagner, M Badea and F Serbanescu, 1992).

International convention and support

Article 6 of the Convention on the Rights of Persons with Disabilities, states that the State Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children. The Convention on the Rights of Persons with Disabilities was adopted on 13 December 2006 at the United Nations. The Convention entered into force on 3 May 2008.

The Convention follows decades of work by the United Nations to change attitudes and approaches to persons with disabilities. It takes to a new height the movement from viewing persons with disabilities as “objects” of charity, medical treatment and social protection towards viewing persons with disabilities as “subjects” with rights, who are capable of claiming those rights and making decisions for their lives based on their free and informed consent as well as being active members of society.

The Convention is intended as a human rights instrument with an explicit, social development dimension. It adopts a broad categorization of persons with disabilities and reaffirms that all persons with all types of disabilities must enjoy all human rights and fundamental freedoms. It clarifies and qualifies how all categories of rights apply to persons with disabilities and identifies areas where adaptations have to be made for persons with disabilities to effectively exercise their rights and areas where their rights have been violated, and where protection of rights must be reinforced.

Under the Convention, State Parties are obliged to take effective and appropriate measures with a view to achieving full inclusion and participation of persons with disabilities in the community. Following the adoption of the Convention on the Rights of Persons with Disabilities (CRPD), ratified in 2018 by all Council of Europe member States, States must ensure the equal right of persons with disabilities to live in the community, with choices equal to others. This involves ending their harmful practice of placing persons with disabilities in institutions, which is a violation of international human rights, and instead enable their full inclusion and participation in the community.

Placement of children with disabilities in institutions affects the lives of more than a million Europeans and is a pervasive violation of the right as laid down in Article 19 of CRPD, which calls for firm commitment to deinstitutionalisation. Many are isolated in their own communities due to inaccessibility of facilities such as schools, health care and transportation, as well as lack of community-based support schemes.

But these conventions have been of very little significance in armed conflicts due to lack of priority for special needs children. During armed conflicts the breakdown of services and infrastructure is especially harmful for special needs children, and they often remain invisible when assistance is planned and delivered. The children are susceptible to physical and psychological abuse, greater risk of sexual violence, neglect, inappropriate medical treatment, solitary confinement, denial of education and above all denial of contact with families.

Outdated and discriminatory practices such as institutionalisation mean children may be abandoned in institutions where risks of human rights abuses are already higher and will have to fend for themselves when caregivers flee the violence. In addition, grave violations against children can lead to long-term impacts and result in different forms of impairment, posing additional challenges to children's recovery and reintegration.

Special Needs Children during the Ukraine-Russia War

On 24 February 2022, Russia launched a military invasion of Ukraine in an escalation of the Russia - Ukrainian War. The campaign had been preceded by a Russian military build-up since early 2021 and numerous Russian demands for security measures and legal prohibitions against Ukraine joining the NATO alliance. It is reported that disabled children are being abused and neglected in institutions across Ukraine. UN experts have warned about this. The human rights officials said the war had made the situation even worse and called on the Ukrainian government to right its "historic wrongs". Their statement comes after a BBC News investigation uncovered widespread abuse in the country's orphanages. There were more than 100,000 children and young people living in institutions before the war.

When Russia invaded in February 2022, thousands of disabled people were removed from the institutions and sent back to their families in an abrupt manner. An estimated 100,000 children designated as "orphans" in Ukraine are living in around 650 to 750 separate institutions or boarding schools. Half of them are children with disabilities. The parents may still be in Ukraine or who may already be abroad. Some children who were in institutions may have left Ukraine with staff from an institution, while others may have become separated from their caregivers and become unaccompanied or separated children during the evacuation. Children were relocated to Israel from an orphanage in Ukraine. Other groups of children from orphanages in major cities like Kyiv, Odesa, Kharkiv, and Zaporizhzhia have been taken to EU countries including Poland and Romania.

The Ukrainian authorities tried to ensure that the children travel with sufficient information about their identities and needs but it is unclear whether they are being transferred into the care of child protection agencies in their states of arrival or transit. In previous comparable international crisis situations, many children were placed for adoption without procedures being put in place to reunite them with suitable family members and this is no longer considered good practice. In some cases, private individuals are taking these children into their care.

Thousands of children with disabilities have been sent back to their places of origin without first determining whether the environments are safe, even after they were warned that this practice may endanger the youth, including by instances of abuse and trafficking. Moreover,

mass returns have left many children untreated for physical and mental health conditions. Citing their displacement from one facility to another, the experts observed that the children who had remained in institutions are experiencing a decline in their health and well-being.

And adding to the already known problems of neglect, abuse, physical restrictions, and access to basic services – including education and healthcare – a lack of information on their whereabouts is preventing families from restoring contact. Cross institutionalization cannot be a strategy for the future warned the Special Rapporteurs.

Deinstitutionalization- Comparison and challenges

In September 2022, the CRPD Committee announced the adoption of the Guidelines on Deinstitutionalization, including in emergencies designed to complement General Comment No. 5 on Article 19 (Living independently and being included in the community) and the Guidelines on Article 14 (Liberty and security of person). The deinstitutionalization guidelines assume even more significance in the backdrop of the Ukraine-Russia conflict.

In Romania, there were also over 100,000 children growing up in institutions in 1998. Twenty years later, that number had dropped to 6,632 children in 185 institutions. Organisations such as Hope and Homes for Children, Lumos, Disability Rights International and Changing the Way We Care work to drive change in support of family-based alternatives while advocating for system reform. The single best remedy to the ills of institutionalisation is to stop a child entering care at all: in Brazil and Rwanda, that has meant focusing on care within the extended family, while in Bulgaria, the focus is on prioritising the issues that lead to disabled children being institutionalised.

In Romania the period from 1997-2000 is considered the real reform phase in terms of effectiveness of child welfare reforms. The local programs were designed to prevent child institutionalization by supporting new mothers through activities such as maternity care centres, day care centres, and day recovery centres for children with disabilities.

Decades of work on deinstitutionalisation has shown that effective reintegration is gradual, planned and supported in the absence of which, children may still be at significant risk of being placed in unsafe and inappropriate care. Reports from the Ukrainian Ministry of Social Policy indicated that 30,582 children from these institutions were returned to the care of parents and other guardians following the eruption of conflict across the country. While this might seem like good news, there are significant implications for children sent back in haste and without preparation, having spent years in institutional care. Lack of access to supportive services, tackling developmental delays, effective support for attachment disorders, and addressing families' own mental health and wellbeing are just a few of the issues that need to be tackled. Measures to address the reasons the child was placed in an institution in the first place are also key, as well as strengthening the child protection system in Ukraine to ensure no other children become institutionalised.

These children may not have been home in many years. They and their caregivers will need help to meet their needs and connect with a network for on going support. Additionally, estimates vary on the number of children with disabilities in Ukraine, but it is thought that a

significant number of them had been institutionalised. The holistic support both children with disabilities and their caregivers desperately need can only be provided if the humanitarian community and government work together to ensure their basic needs are met and they have access to inclusive education, safe transport, housing, quality health care, protection and psychosocial support, as well as rehabilitative services when needed.

The question for the humanitarian community and government to contend with is how to address the immediate and longer-term protection needs of these children and their families. Families and caregivers will also need services such as financial support and parenting programmes, and access to health care, psychological and social support, education and livelihoods opportunities regardless of where they have been displaced or how their lives have been uprooted.

Conclusion

In India, Section 5 of Rights of Persons with Disabilities Act 2016 clearly stipulates that persons with disabilities shall have the right to live in the community. Indian cultural fabric does not entertain placing of children in institutions which is opposite to the prevailing Eastern European practices where institutionalization is the norm for special needs children.

All children, including children with disabilities, have the right to be cared for and raised by their parents and not to be separated from their parents, except when such separation is necessary for their best interests. Not all families are safe, nurturing, and protective. In these situations, it calls for alternate protective care in extended families in a community-based setting.

However, in cases where the immediate family is unable to care for a child with disability, the CRPD requires governments to “undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.”[The CRPD also states that “no case shall a child be separated from parents on the basis of a disability of either the child or both of the parents.”

Institutionalization of children is an extremely detrimental practice. Research over the years has consistently proven that these institutions harm the children, threatening their development by exposing them to increased risk of violence and abuse. The adverse effects of institutionalisation on infants like developmental disorders, malnutrition, growth retardation are irreversible.

Institutionalisation removes the children from their community and when the kids finally move out of institutions, they carry the stigma of being ‘institution kids’. In addition, in times of crisis they are far more vulnerable to risks such as trafficking, drug addiction, and long term mental health issues.

The United Nations Children’s Fund (UNICEF), the World Health Organization, and decades of social science research have found that institutional environments can cause stunted physical, intellectual, emotional, and social development among children separated from families and placed in institutions due to lack of consistent caregiver input, inadequate stimulation, lack of rehabilitation, and other deprivations.

In Ukraine, since the adoption of the National Strategy on Reform of the Institutional Care System (2017-2026), the Government of Ukraine has embarked on a process of reforms and committed to transform its national care system. Despite some positive developments, the pace

of reforms has not been comprehensive and has encountered significant challenges that preserves the institutionalization culture.

With the ongoing conflict, it is even more daunting for the state to continue its efforts towards deinstitutionalization. Non-profit organizations in Ukraine and Europe have called for a unified and comprehensive “*deinstitutionalization strategy*”. They have recommended to their respective governments to establish a single national body for the implementation of the child protection and care reform through the deinstitutionalisation strategy, and ensure this body has adequate executive, financial power and human resources for the implementation of the strategy. They have also called for an end to the placement of babies and very young children (0-3 years) in any form of institution.

An estimated 100,000 children and young people currently reside in various forms of institutions across Ukraine, including in baby homes (for children up to 3-years-old). This system has changed little in the last two decades and it employs more than 60,000 staff across almost 700 facilities nationwide. These institutions are booming in Ukraine. They create a micro-economy of services and local employment. The children warehoused in such facilities could receive care within their families and communities, if they were provided with the right support. It is the very existence of children’s institutions which often drives the separation of families.

It is the responsibility of the State and society at large to accelerate the deinstitutionalization strategy. It is the crying need of the hour for the State to act decisively on child protection reform at the community and at a national level in Ukraine. When the last bullet is fired and when the dust settles the institutionalized children will have a bigger price to pay for the collective inaction of the able minded members of the society.

References

1. Turner, J. L. (1998). Children with chronic illness. *Medical Update for Psychiatrists*, 3(2) 45-48. doi:10.1016/S1082-7579(97)00096-4
2. Booth, C. L., & Kelly, J. F. (1998). Child-care characteristics of infants with and without special needs: Comparisons and concerns. *Early Childhood Research Quarterly*, 13, 603-621. doi:10.1016/S0885-2006(99)80063-5
3. Scott, E. K. (2010). “I feel as if I am the one who is disabled”: The emotional impact of changed employment trajectories of mothers caring for children with disabilities. *Gender & Society* 24(5), 672- 696. doi:10.1177/0891243210382531, Booth, C.L., & Kelly, J.F. (1999). Child care and employment in relation to infants' disabilities and risk factors. *American Journal on Mental Retardation*, 104, 117-130.
4. Spitz, R. A. (1946). Anaclitic depression; an inquiry into the genesis of psychiatric conditions in early childhood. *The Psychoanalytic Study of the Child*, 2, 313–342
5. Maternal care and mental health. World Health Organization monograph series no. 2. Geneva, Switzerland: World Health Organization. Retrieved from <http://apps.who.int/iris/handle/10665/40724>
6. P Stephenson, M Wagner, M Badea and F Serbanescu (1992): Commentary: The Public Health Consequences of Restricted Induced Abortion- Lessons from Romania *American Journal of Public Health*, Vol 82 No 10, pages 1328-1331.

7. <https://www.statelessness.eu/statelessness-ukraine-crisis>
8. <https://www.internationaldisabilityalliance.org/blog/guidelines-deinstitutionalization-including-emergencies>
9. <https://www.ohchr.org/en/statements/2022/12/protection-measures-needed-support-children-disabilities-armed-conflict-un>
10. <https://news.un.org/en/story/2022/08/1124492>
11. <https://www.bbc.com/news/disability-62513459>
12. <https://www.hrw.org/news/2017/03/07/children-disabilities-deprivation-liberty-name-care-and-treatment>
13. <https://odihpn.org/publication/ukraines-invisible-children-the-urgency-of-care-reform/>