## Protecting human rights during and after the Covid-19

*A submission by the Lumos Foundation to inform the report of the Special Rapporteur on the sale and sexual exploitation of children focusing on the impact of Covid-19 pandemic on children to be presented to the Human Rights Council at its 46th session in March 2021.*

*19.06.20*

**Introduction to Lumos**

Lumos Foundation is an international non-governmental organisation, founded by author J.K. Rowling, working to end the institutionalisation of children globally by 2050. To achieve this aim, Lumos works in partnership with governments, United Nations agencies, European Union institutions, civil society, communities, families, children, and caregivers to transform outdated and ineffective systems that separate families. Together with partners, Lumos replaces institutions with family and community-based services that provide children with access to health, education, and social care tailored to their needs. This support enables families to provide the care their children need to develop to their full potential. Lumos delivers a combination of country programmes; sharing expertise and provision of technical assistance; research and documentation of best practices; advocacy and policy influencing at the highest levels of government, funders and the international community to change attitudes and drive positive change.

**Background**

We face a truly global problem. Millions of children are already in institutions, including so-called “orphanages” due to poverty, disability, discrimination and a lack of access to services. However, most of them are not orphans. Research demonstrates that on average more than 80 per cent of children in institutions have at least one living parent.[[1]](#footnote-2)

Depriving children of a family and placing them in institutional care is always a violation of their human rights and a harmful practice that makes children vulnerable to violence, abuse, neglect and exploitation with potentially devastating consequences.

Nearly a century of research from around the world has demonstrated that living in institutions, deprived of loving parental care, can cause significant long-term harm to children’s health and development.[[2]](#footnote-3) The prevalence of physical and sexual abuse in residential care is higher than in other forms of care, even in countries where residential care is better resourced with smaller numbers of children per facility.[[3]](#footnote-4) [[4]](#footnote-5) Reports from across the globe show that institutionalised children are often subjected to violence from staff and officials responsible for their well-being. This can include torture, beatings, isolation, restraints, rape, harassment, and humiliation.[[5]](#footnote-6)

Young adults leaving institutions are especially vulnerable to these risks because they have had fewer opportunities to develop the social skills and networks they need to live successfully and independently in the community.[[6]](#footnote-7) These poor outcomes for children result in high potential social and economic costs to society.[[7]](#footnote-8) Nevertheless, children continue to be placed in institutions.

**Vulnerability**

Institutions for children, as has been seen with care homes for older people, can be hotbeds for the spread of diseases[[8]](#footnote-9) – with residents in close quarters, often in very poor conditions.[[9]](#footnote-10) This is compounded by the fact that many institutions house children with vulnerabilities, such as children with disabilities or babies.

It is thought that the generally lower levels of health and wellbeing of institutionalised children leaves them at greater risk of illness. For example, a recent article published by EuroChild stated that, whilst overall Covid-19 seems to produce only mild symptoms in healthy children, all institutionalised children are immunosuppressed to a certain extent and are therefore at much greater risk of severe and possibly lethal forms of the illness.[[10]](#footnote-11)

In times of the COVID-19 pandemic and lockdowns, the defining negative aspects of institutionalisation (the congregation of a large number of people in one building and the deprivation of social contacts) are increasingly blatant and only tend to aggravate with exposure to the virus. The way this crisis is affecting those who need daily care and their support systems stems from structural underinvestment in the inclusion and well-being of all, and in the promotion of different models of support in the community. Children in institutions are at increased risk if staff and volunteers continue to come and go – potentially bringing in the virus which would then be difficult to contain.

As staff who work in institutions need to self-isolate, and visitors are barred; it is anticipated that the care-giver ratio may diminish. Evidence from previous infectious disease outbreaks indicate that existing child protection risks are exacerbated, and new ones emerge, as a result of the epidemic as well as of the socioeconomic impacts of prevention and control measures.[[11]](#footnote-12)

Unaccompanied migrant and refugee children are currently living in reception centres, camps and shelters around the world. The conditions in these facilities, with crowded living spaces, shared bedrooms, bathrooms and kitchen facilities, put children at risk of cluster infections during Covid-19. The lockdown restrictions imposed by many countries in response to the pandemic further exacerbate the risk of harm for these children – limiting their access to health, education and social services, creating delays in asylum processes and increasing pushbacks at borders and at sea. The lack of guardianship as well as the backlog in registration of cases means that hundreds of unaccompanied children are in danger of missing their chance to apply for family reunification. Whilst the immediate support of unaccompanied children is an immediate priority, evidence shows that temporary shelters frequently become permanent solutions which proliferate long after the disaster.[[12]](#footnote-13)

**Immediate Responses**

It has been observed in many countries that children in institutions are sent back to their families in response to the virus, with Governments and institution directors recognising the vulnerability of this form of congregate care in the spread of disease.[[13]](#footnote-14) These measures may be taken very quickly with little time for preparation, and without the best interests of the child being taken into account. This means that some of these children may have been returned to unsafe family environments, where they could be at risk of being trafficked or abused by family members.[[14]](#footnote-15) Children are not a ‘unit’ that can be placed according to the convenience of others. A child moving to a new placement must be carefully assessed, prepared, supported and monitored; even if they are moving back to their birth family. Rushing or missing these steps may result in putting children in an even more harmful situation.

In addition, funders and other supporters of orphanages and other institutions may take immediate action to cease their support. This could be in response to temporary orphanage closures, personal income insecurity or inability to travel to or communicate with their beneficiaries. Whilst supporting orphanages and institutions is not in the best interest for children in the long term, it is vital that individuals and funders that provide support to them do not suddenly withdraw as this can result in significant risks for children. This is because once children have been living in residential institutions, returning them to their families or identifying appropriate forms of alternative care takes time. It is crucial to seek expert support from partners with experience in child protection who understand the local context, and to ensure that existing funding can be reinvested in services supporting families to stay together.

**Trafficking and Emergency Response**

In a recent report, the UNODC highlighted that “the pandemic has exacerbated and brought to the forefront the systemic and deeply entrenched economic and societal inequalities that are among the root causes of human trafficking”.[[15]](#footnote-16) In addition to the increased risks, the enormous strain put upon state authorities and NGOs as a result of the global pandemic, is likely to impact their capacity to provide essential services to the victims of trafficking.

Lumos has identified four recurring linkages between institutions for children and trafficking – herein referred to as ‘institution-related trafficking’[[16]](#footnote-17):

1. Children are recruited and trafficked into institutions, solely for the purpose of financial profit and other forms of exploitation – also known as ‘orphanage trafficking’[[17]](#footnote-18);
2. Children are trafficked from orphanages/institutions into other forms of exploitation;
3. Child trafficking victims and unaccompanied children are often placed in institutions for ‘protection’, which can put them at risk of trafficking and re-trafficking;
4. Care-leavers are more vulnerable to exploitation and trafficking.

The current Covid-19 pandemic is expected to increase the prevalence of children being separated from their parents[[18]](#footnote-19) and child exploitation.[[19]](#footnote-20) Research shows that impoverished and marginalised families are more likely to become targets of ‘orphanage trafficking’ schemes.[[20]](#footnote-21) Dramatic increases in unemployment and reductions in income as a result of Covid-19 mean that significant numbers of people who were already vulnerable find themselves in even more precarious circumstances. This presents an opportunity for unscrupulous orphanage owners to prey on those families who may be increasingly struggling to provide for their children.

Lumos is concerned that many children will be abandoned or separated from their families as a result of Covid-19 and related increases in poverty, mortality, poor health, family stress, domestic violence, and other reasons. To compound this issue, the proliferation of institutions following such displacement and disaster can act as a ‘pull factor’ to vulnerable communities, where parents may feel their best option is to place their child into an institution in order for them to access basic services and provisions.[[21]](#footnote-22)

Unaccompanied migrant and refugee children are particularly vulnerable to trafficking due to their isolation, their desperation to reach or remain in a particular country, as well as the discrimination they face. This vulnerability is compounded in detention and reception centres, where children and young people are at increased risk of trafficking.[[22]](#footnote-23)

Previous unprecedented global emergencies have shown a concerning trend in creating a new marketplace for institutions, which can be capitalised on by traffickers and other organised criminals. Following the devastating 2015 earthquake in Nepal, child protection concerns were immediately raised regarding the increase in child trafficking and the institutionalisation of children.[[23]](#footnote-24) Officials at the District Child Welfare Committee recorded several cases of traffickers posing as representatives from various religious sects using enticements to take children away from poor and vulnerable parents at their consent.[[24]](#footnote-25)

**Summary**

Evidence from previous outbreaks indicates that existing child protection risks are exacerbated, and new ones emerge. It is anticipated that the number of children at risk of separation and in need of alternative care will increase. As a result, and alongside general warnings of a rise in child exploitation, it is of deep concern that more children may be affected by institution-related trafficking.

**Recommendations**

1. We urge national authorities to undertake carefully planned measures with respect to deinstitutionalisation in light of the Covid-19 pandemic and suggest the following ways:  
   * Institutions that remain open should ensure the safety of children and caregivers by providing guidance and support – in line with public health guidance – on signs of infection, social distancing, and hygiene practices that prevent infection.
   * Only essential members of staff should be permitted to enter institutions, with all visitors and volunteers prohibited, unless this is maintaining contact with a child’s family members.
   * It is essential that strict records are maintained of all children both inside the institution and those who are leaving to new placements.
   * It is essential that any institution that is reuniting children with their family undertake careful planning, and only do so if it is in the best interest of the child. Ideally, guidance will have been prepared for families receiving the children on why children have left their institution and what measures will be needed to support the children. Systems for monitoring placements should be put in place. For reasons of safeguarding, children should not be deinstitutionalised if they cannot be monitored regularly.
   * Planning should begin immediately for after public health measures are lifted, on the care and protection of children who have moved to alternative placements. Best practice would be an assessment of the needs of each child, whether in or out of an institution, and the development of a case plan. We hope that many of those who have been deinstitutionalised as a result of Covid-19 will be able to stay successfully in a household with the right services, support, and monitoring.
2. There is an urgent need for systematic data collection and analysis on the impact of Covid-19 on institution-related trafficking – and, in general, improved data on institution-related trafficking in order to understand and track the phenomenon.
3. Governments and relevant authorities must develop rapid assessment tools to evaluate the impact of the pandemic on essential services for victims of trafficking, as well as on law enforcement and justice capacities. They should ensure child-centric, integrated and individualised, trauma-informed support for suspected and identified child victims of trafficking, which prioritises family-based care over institutional options.
4. As the pandemic eases, resources should be focused on supporting family-based and community-based programmes and services for children, including those who find themselves orphaned or displaced after the pandemic in order to prevent the establishment of new institutions and to reduce family separation. National governments and civil society should develop family support mechanisms, social work interventions, employment schemes, alternatives to institutional care, family-friendly immigration policies and broader policy measures to keep families together.
5. We encourage governments todevelop national policy that outlaws the practice of volunteering in children’s institutions, and issue official travel advice for citizens about the harms of such volunteering and visits, and the link to child exploitation.
6. We recommend that governments and multilateral bodies recognise ‘orphanage trafficking’ as a form of exploitation, and the wider risk to children in institutional care, in anti-trafficking laws, policies, guidance and strategy.

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10. Koenderink, F. for EuroChild *Impacts of Covid-19 For Children in Alternative Care (2020)*  <https://www.eurochild.org/news/blog/article/impacts-of-covid-19-on-children-in-alternative-care/?tx_news_pi1%5Bcontroller%5D=News&tx_news_pi1%5Baction%5D=detail&cHash=5772d484a975e569a38746976934fe3d> [↑](#footnote-ref-11)
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14. Better Care Network, UNICEF & The Alliance for Child Protection in Humanitarian Action. (2020). *op. cit.* [↑](#footnote-ref-15)
15. UNODC (2020) Impact of the Covid-19 Pandemic on Trafficking in Persons. [https://www.unodc.org/documents/Advocacy-Section/HTMSS\_Thematic\_Brief\_on\_Covid-19.pdf](https://www.unodc.org/documents/Advocacy-Section/HTMSS_Thematic_Brief_on_COVID-19.pdf). [↑](#footnote-ref-16)
16. Institution-related trafficking is the umbrella term used in this report to refer to the various manifestations of human trafficking in the context of institutional care for children. This includes trafficking into institutions (so-called ‘orphanage trafficking’), out of institutions, the institutionalisation of child victims of trafficking and trafficking of care leavers. [↑](#footnote-ref-17)
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