

***Submission by “SOS Children’s Villages-Azerbaijan” Association
To the Human Rights Council
In the frame of Universal Periodic Review of Azerbaijan***

August, 2008

“SOS Children’s Villages-Azerbaijan” Association has been operating in Azerbaijan since 2000. It is one of the members of SOS Kinderdorf International which is an umbrella organization for more than 130 national associations worldwide. “SOS Children’s Villages-Azerbaijan” Association is a non-profit local NGO working in the field of child care. It provides family-based care for children deprived of parental care and has different programs and projects supporting children at risk of abandonment and their families. In May 2008 “SOS Children’s Villages-Azerbaijan” Association carried out a Child Rights Situation Analysis of children without parental care and at risk of losing it in Azerbaijan.

The Analysis showed that the situation of children without parental care and at risk of abandonment presents significant challenges despite certain steps taken by the government to improve it. There remain many gaps and obstacles within society, government and legislation that will take time to improve the child welfare and protection system in Azerbaijan.

Based on the analysis, which is elaborated further in the *Analysis and Issues* section below, “SOS Children’s Villages-Azerbaijan” Association suggests the following *Key Recommendations* be made to the government of the Azerbaijan Republic on children without parental care and at risk of abandonment:

Key Recommendations

Put more efforts and attention to the process of de-institutionalization:

- Improve gate-keeping to prevent unnecessary admission to residential institutions
- Invest in social work – capacity building of social workers, experience exchange with other countries, use expertise of NGOs;
- Organize community based and family support services;
- Make alternative forms of care more accessible to parents wishing to take a child to their family;
- Develop and implement mechanisms of foster care throughout the country.

Realize aftercare support services to children leaving state residential institutions by:

- Providing adequate financial support ;
- Providing effective vocational training during their stay in institution and providing necessary life skills;
- Develop suitable accommodation options for children preparing to leave care.

Organize support services to families and children with special needs by:

- Putting more efforts into realization of inclusive education program (work with school authorities and parents, material-technical provision for children with disabilities, etc.)
- Raise awareness at all levels on the importance of inclusive education;
- Organizing capacity building for parents of disabled children;
- Providing community-based, family support and rehabilitation centers for families with children with disabilities;
- Providing adequate financial support to these families and children.

Make necessary changes to governmental bodies and agencies to create a better Child Protection system in Azerbaijan.

- Invest in capacity building of the workers in governmental structures and agencies
- Improve inter-agency communication and collaboration
- Raise motivation of the workers in governmental bodies and agencies
- Involve civil society in development of laws, mechanisms of implementation, use the expertise of NGOs.

Analysis & Issues

► ***De-Institutionalization process in Azerbaijan goes very slowly***

The State program on de-institutionalization and alternative care signed by the President of Azerbaijan in 2006 is facing serious problems. In 2006 Ministry of Education established the Coordination Council for the implementation of State Program of De-I, which was comprised of various ministries, state committee, INGOs, local NGOs and UNICEF. However, the Coordination Council ceased its activities in 2008 by the order of the Ministry of Education, which is believed to have happened due to ineffective and unsuccessful performance. Currently, the secretariat of the De-I program, supported by two consultants provided by UNICEF, coordinates the implementation of the program. However, the involvement of other government ministries, committees and NGOs is very limited now. Lack of coordination and skilled staff hinders the effective implementation of the program.

There is a pilot project in one school orphanage aiming at returning children to their families. This project has been facing difficulties and barriers because the whole child protection system is not in place and there are very few community based services functioning for children and families.

► ***Children in residential care face many difficulties and problems. The care institutions don't provide quality care***

The existing residential care system is not in a position to provide effective care to children and support their development and serve the general function of accommodating children. Specifically, such institutions do not have individual care and development plans for every child; do not conduct periodic review of their placement, family status and general wellbeing of a child in institution. Children in residential care also have less opportunity for education and development, as the quality of education provided by institutions is lower than in typical primary/secondary school.

As residential care system is not monitored systematically and is out of public's eyes children face serious violations of their rights from teachers and educators, as well as their peers. Numerous researches and polls proved that many forms of punishment (including corporal punishment) and ill-treatment of children are still used in institutions. With no effective complaint procedures, children have no possibility to complain about cruel treatment, and no measures are taken to protect children in institutions. No independent body observes and monitors and takes necessary actions to prevent these cases. The Commissions on Minors' Affairs, which are entitled to do so are not capable and in reality do not implement the full range of duties granted to them by Law.

► ***No aftercare activities are implemented for children leaving state residential care***

Most of the children without parental care face many social problems after graduation from these institutions. The lack of vocational training in residential care as well as life skills education leads to major difficulties that these children face in the world outside of boarding school or orphanage. The absence of suitable accommodation forces many of these children to live in streets, parks and basements of residential buildings. The absence of financial support and

difficulties in finding employment leads to their social exclusion and involvement in criminal groups.

In 1999 Azerbaijan adopted the Law on Social protection of children without parental care and orphans. The law states the every child placed in the residential care system retain his/her rights to property, family reintegration, social, education support and care during placement and social support after he/she left the residential care system. It also says that every child's placement shall be monitored by respective government agencies and three months before the child's graduation from institution he/she is placed, the respective government agency shall determine the needs for accommodation for the child. And if a child does not have a property left by parents, the government shall provide the accommodation for the child. However, the study shows that Commissions on minors' affairs and authorities of residential care institutions do not undertake necessary measures to ensure that children are accommodated after the graduation from institutions.

The chances of children from residential care being admitted to higher education are also very limited. Vocational education and training is not given priority in these institutions and there are no technical and other means to provide them. Lack of employment opportunities is a major problem that these children face after graduation. In 2005 a poll conducted among such graduates in Baku, Gandja, Mingechaur and Sheki regions indicated that only 15% of them managed to get into the colleges and universities, only 20% found a job, 35% got married, just 30% had a place to live, 10% of girls already were single mothers.

► ***Children with disabilities face discrimination as well as violation of their essential rights.
Inclusive education program is not implemented effectively throughout the country.***

There are about 52.000 children with disabilities in Azerbaijan. The majority of these children do not attend school for the as schools are simply incapable of accommodating them. The majority of schools do not have special classes, equipment, skilled teachers and teacher-assistants, adapted curricula and other education materials to provide education for children with disabilities. The only possibility for these children to get primary and secondary education is to be placed in residential care institutions. This exclusionary system does not provide for socialisation of children but rather isolates them from other children and increases their exclusion from the community.

The inclusive education concept has been introduced in Azerbaijan and a special government program was developed in 2005. However, implementation has been very slow and inconsistent and there are lots of constraints, including the public's general attitude towards the inclusive education of children with disabilities with typical children. The key obstacle here is the lack of political will and lack of understanding of the concept of inclusive education among civil servants and the general population. The absence of specialised adapted curricula, textbooks, school facilities hinders the inclusive education of children with special needs, including children with disabilities

In general, disability is one of the most critical risk factors leading to the institutionalisation of a child. The research showed some capacity to take care of the child within the families with disabled children. But still there is a great need for community based services, rehabilitation centres for these children and parents; capacity building trainings should be organized for parents.

These children do now receive social pensions for disability which is very small (25 AZN – 31 USD or 21 EUR approx) and not sufficient to have significant impact on a child with special need and his/her family. Furthermore, according to the law one of the parents should receive a monthly social payment in the amount of the minimum salary rate in Azerbaijan. However, no parents interviewed indicated that they received this payment and all stated that they had never heard about this welfare benefit. Also, the majority of children with disabilities requiring a wheelchair remain in long queues to get them.

► ***Street children in Azerbaijan are one of the vulnerable groups that needs state programs and services to be developed for them.***

There are no programs for rehabilitation, medical treatment, social reintegration and education developed and in place for those children working and living in streets. Although there is no exact data on the number of street children in Azerbaijan, however, the available figures are of major concern. The Centre “House of Light” which is a local NGO operates the special centre for street children and runs programs for 300 children. The number of children registered with the Transit Centre within the Ministry of Internal Affairs is about 700 children. Children working/living in streets are at increased risk of violence, abuse, including sexual abuse and exploitation. The drop out rate from education system is also very high among this category of children. These children are also at increased risk of being involved in criminal behaviour.

► ***Absence of effective child protection system and structural problems of governmental bodies and agencies lead to violations of child rights as well as deteriorate child welfare in Azerbaijan.***

Monitoring conducted in 2006 identified gaps in the performance of child protection agencies in Azerbaijan. This revealed systemic gaps in the functioning of entire child protection system, i.e. concluding that the current system fails its children. This system, comprised of Commissions on Minors’ Affairs and protection of their rights and body on Guardianship and Adoption at local levels do not fulfil their responsibilities and can not efficiently perform their functions to protect the child rights. Members of Commissions on Minors’ Affairs who are representatives of police, labour and social protection, education, health and also youth and sport departments, are unpaid and rarely participate in the meetings of the commissions. The commissions on minors are entitled to participate in development of different normative legal acts and by-laws concerning the different aspects of protection of children’s rights and their welfare. However, almost none of the commissions on minors have ever participated in the development of any local, district or nation-wide programs on the protection of rights of children.

Although, the State Committee on Family, Woman and Child’s issues is to be considered as a leading agency in the field of children issues, in fact it has not been able to become one in practice. The main reasons are lack of expertise, qualified human resources and coordination of work with other government agencies and ministries.

Most of the adopted state programs and National Plans of Action targeting the children have experienced difficulties in implementation. The lack of coordination and communication between different structures of the government creates serious barriers for effective implementation of these programs and activities. Also, most of the programs and plans of actions are developed without serious research and study conducted in the field as well as insufficient piloting of newly developed mechanisms prior to their nation-wide application.

► ***System of state social services is not adequately developed.***

Drawing on various research conducted during period of 2005-2008 indicates that the majority of the children currently in state residential care (80%) are children of families living under the poverty line, children of single parents and children from families in crisis - social orphans. The lack of social services and absence of effective child protection system hinders the support that government provides to families and children. Families at risk or in crisis are not identified in time and not adequately assisted which leads to disruption of families with negative consequences. The absence of crisis centres, family support and family counselling services as well as community based day-care and rehabilitation services for children with special needs in most of the regions also leads to disruption of families and the placement of vulnerable children into residential care system.

► ***Alternative forms of care are not well elaborated and not widely used in the country.***

Mechanisms for adoption and guardianship are elaborated in the law of the Azerbaijan Republic. But a potential adoptive parent faces some obstacles when wishing to adopt a child. In-country adoptions are limited by the complicated procedures, bureaucratic barriers and the lack of transparency as well as corruption within the system. Adoptive parents also don't receive any financial and other support from government.

Families that accept a child for guardianship receive only 5 AZN (6 USD or 4 EUR approx) per month as the financial aid from government of Azerbaijan. This sum however, is insufficient to meet even the basic needs of the child.

Foster care was introduced in the Family Code (2005) of Azerbaijan Republic. But there are no mechanisms in place. Fostering is now one of the directions where UNICEF is trying to support our government.

► ***There is no specialized juvenile justice system and juvenile (family) courts and judges in Azerbaijan.***

The legislation of the Azerbaijan Republic accepts a child's opinion to be used in court as beginning with the age of 10 according to the Family Code (2005). However, there are no clear definitions and provisions on how these views and opinions by children should be handled and considered. There is no specialized juvenile justice system and juvenile (family) courts and judges in Azerbaijan.

In 2005, a lobbying campaign by the local NGO network promoted the establishment of the position of Children's Rights Ombudsman in Azerbaijan, which will be established soon. Having separate Children's Rights Ombudsman (appointed by President and approved by Parliament of Azerbaijan) within the system of deputy of Human Rights Commissioner will significantly improve the situation of children's rights in the country, and support the civil society efforts to improve the legislation and protect the children from violence.

This concludes the stakeholder submission of "SOS Children's Villages-Azerbaijan" to the Office of the High Commissioner for Human Rights (OHCHR) for the Universal Periodic Review of the Azerbaijan Republic during the working group's 4th session (2-13 February 2009).