

# Re-Operationalizing the “Best Interest” Standard for Children without Parental Care: Toward Permanent Environmental Reassignment for Residential Childcare Institutions

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## Abstract

Procreation confers no legal right to interminable parentage, nor should society presume that biological parents are or can be optimal caregivers. When parents fail at their obligations, state intervention may lead to placement in a residential childcare institution (RCI). Although institutionalization has historically been excoriated as contrary to a child’s best interests, this conclusion is based on antiquated research that belies the contemporary RCI. While warehousing children in attenuated environments is disruptive, reflexively advocating for the closure of *all* RCI, and returning unwanted children to the same impoverished environments from which they were previously removed, is equally perilous. Rather than invigorate RCI with a philosophy that encourages childhood experienced and facilitates education, safety, and mutual respect, stakeholders continually default to the “family” because of a genetic relationship. This is the very definition of child neglect. Recent research in Armenia suggests that RCI provides vulnerable children with a safe haven during times of crisis, nurturing relationships with staff and peers, emotional stability during formative years, and an improved standard of living. Moreover, Armenia’s “transitional centers”, which house older teenager girls who have graduated high school and outgrown the traditional RCI, afford a continuum of care that facilitates higher learning and encourages emotional and fiscal independence. The evolution of the modern RCI suggests that any rational “best interest determination” must eschew intrafamilial deference and instead embrace permanent environmental reassignment when a biological family’s ability to offer even marginal care and supervision is compromised.

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## Keywords

Armenia, Residential Childcare Facilities, Environmental Reassignment, Orphanages

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## 1. Introduction

In the context of evaluating child rearing alternatives, identifying the morally correct outcome is challenging. The historical assumption is that children raised by biological parents enjoy more positive outcomes, and suffer fewer negative outcomes, than children raised in alternative child rearing environments (Ijzendoorn et al., 2008; Bowlby, 1958). The theory presupposes that the love children receive from biological parents exceeds the emotional support that could be provided by a surrogate caregiver, and that nurturing provided by biological parents outweighs any tangible advantages that a residential childcare institution (RCI) provides. Child protection raises philosophical questions about the relationship between biological relations and child rearing; the role and duty of the state to intervene in child protection; and what considerations should justify placing a child with alternative caregivers. To challenge the historical approach that stakeholders should mechanically defer to biological family, we explore the philosophical nexus between caregiver and child and the roles and obligations of the family and state in child rearing.

The concept of the family is enmeshed with duty and responsibility. More than two centuries ago, Kant (1999) asserted that parents and children collectively formed a family, which, by virtue of this union, entitled children to various rights and prescribed responsibilities to parents. While familial decline is often rooted in utilitarian philosophy, Kant's non-utilitarianism accords a place to certain moral absolutes: duties and the rights that flow to others as a result of those obligations (Almond, 2012). These maxims dictate parental obligations to children, bestow rights to children from parents, and prescribe interventionist duties to the state when parents forfeit their obligations or when children's health and safety are compromised.

Hegel and Dyde (1896) extended the concept of familial union by focusing on the emotional connection between parents and children. He noted that, "the family... is specifically characterised by love, which is mind's feeling of its own unit, and... in a family, one's frame of mind is to have self-consciousness of one's individuality within this unity as the absolute essence of oneself..." (Hegel & Dyde, 1896: §158). Hegel believed that the family unit and love are inimitable, and that the family is best seen as a collection of interdependent persons rather than individual units. That is, the unique characteristic of each individual is absorbed into the social unit (one is an integral part of one's family), with these interrelationships conferring obligations from parents to children and bestowing entitlements for children through parents.

Stability within the family unit is one right to which children are entitled. Hegel not only asserted that all individuals have a natural right to live within a family unit, but that this right becomes more absolute if the family unit dissolves (Hegel & Dyde, 1896: §159). He appreciated the family unit as a multi-phase evolution: marriage, which forms the family; property and capital, which build the family; and the education of children and the dissolution of the family, which signal the end of the filial unit (Hegel & Dyde, 1896: §160). The duties conferred to one's spouse and children, and the relinquishment of freedoms to the family unit, begin with marriage. Two individuals, with no previous obligation to each other, relinquish their identities to a spousal unit. Procreation extends the spousal agreement to children, when a husband and wife surrender additional freedoms (e.g., time and money) to offspring when they decide, as a spousal unit, to procreate. The spousal unit can not only create a child, but should contemplate all eventualities associated with child rearing. These acts of collective decision-making mean that children are entitled to effective child rearing *by virtue of their birth*.

This philosophical position holds that individuals have special obligations to offspring who they "caused into existence"—that is, biological parents incur moral obligations to their offspring when they *choose* to procreate, and children, biologically determined by virtue of parental decision-making, enjoy certain rights because of this causal relationship. According to Hegel (Hegel & Dyde, 1896: §173), children were the byproduct of a couple's union, stating that, "it is only in the children that the unity itself exists externally, objectively, and explicitly as a unity, because the parents love the children as their love, as the embodiment of their own substance." Because Hegel assumed that a married couple enjoins through love, children are the essence of their devotion to one another. Hegel noted that, "in the child, a mother loves its father and its mother. Both have their love objectified for them in the child" (Hegel & Dyde, 1896: §173).

Extending this logic to the relationship between biological relations and child rearing, biological parents can offer children the most love and support because of this unique biological relationship. Inversely, because non-biological caregivers did not create the children (i.e., the offspring were not the product of a married couple's unity), they cannot offer the same love as biological parents. This is the justification that advocates of reunification use in their critique of institutionalization and adoption as suitable child rearing surrogates. Hegel supported stability of the family, recognizing that familial development is processual and deeming the family the most effective alternative within the child rearing hierarchy. He suggested that children are a protected class who deserve to live with biological family. This right is fundamental and should be uprooted only when the familial situation becomes so acute that the child's interests are compromised. While the family unit is the basis of society, the right to be reared by biological family is not absolute, as circumstances arise that may trigger a child's removal from the familial home.

The distinctive emotional relationship between biological parents and child-

ren, created by procreation and nurtured through child rearing, gives rise to strong moral obligations. According to Hegel, the creation of children through a married couple's love not only establishes an emotional bond, but confers upon children tangible rights and promulgates certain responsibilities on parents. Hegel asserted that, "children have the right to maintenance and education at the expense of the family's common capital" (Hegel & Dyde, 1896: §174), and that, "the right of the parents to the service as service of their children is based upon and is restricted by the common task of looking after the family generally" (Hegel & Dyde, 1896: §174). Thus, children are bestowed certain inherent rights by their birth into a family unit, and biological parents, having chosen to procreate, assume duties of protecting or maintaining the family unit and providing for their children.

A biological connection with a child is not the only relationship that creates the moral obligation of child rearing. Parental duties flow from more than procreation. When biological families relinquish child rearing responsibilities, the state may be forced to intervene. This state intervention, which should be immediate and may be permanent, augments parental supervision to safeguard the welfare of children. A biological family, therefore, is not required to consummate adequate child rearing, but its absence may determine the extent to which an outside (non-biological) entity must serve as a suitable surrogate for biological caregivers.

While Hegel addressed the "natural dissolution of the family unit", he did not consider what happens to children and parents when the child rearing obligation is broken. First, the rights children enjoy at birth and which continue through adolescence does not evanesce merely because primary caregivers are no longer able or willing to care for them. Under any rational child protection system, fundamental rights survive through the age of majority. The more principal issue is determining who should assume the duty of ensuring entitlements to children when biological parents are unable or unwilling to do so. The duty of protecting rights must be assumed by the state and requires that the governmental authority assume the responsibility of assuring that society's most vulnerable children are sheltered when the biological relationship dissolves.

Second, once a parent's child rearing obligation is either surrendered or expropriated, a new caregiver must be identified. These alternative caregivers may or may not be biological family, but the process will involve placement into an alternative child rearing environment. The state has a moral and legal obligation to identify a suitable environment that satisfies a child's developmental, emotional, and tangible needs. This is not an uncomplicated calculus and will almost certainly need to be accomplished quickly and without the benefit of child-specific details that are often critical to identifying the *best* placement alternative.

Third, unless a biological parent's rights are relinquished or terminated, they may be invested in the consequences of alternative placement. As such, biological parents should be involved, to some degree, in alternative placement determinations and assessments for institutionalization. This involvement, however,

should be curtailed if the biological family's interest in reunification is compromised. Biological parents who refuse to address barriers to reunification, for example, demonstrate such indifference that continued contact may be detrimental to the child's long-term emotional well-being.

Fourth, placement decisions should not be static. A child's needs, and the environment in which s/he is reared, is a process that should be revisited regularly to adjust for naturally occurring changes to, and emotional fluctuations within, the child and environment. While consistency and continuity may be the benchmarks of placement determinations, a child is perpetually maturing. If familial reunification is to be weighed against adoption or institutionalization, there must be a comprehensive understanding of what advantages and disadvantages are associated with each child rearing environment so that a decision can be made intelligently.

Since the twentieth century, philosophers expanded this parent-child relationship and the rights and duties that flow from this relationship. In the child-centered model, parental rights accompany responsibilities to children, which are morally fundamental. According to [Blustein's \(1982\)](#) "priority thesis", parents acquire rights to fulfill their responsibilities. A parent can choose for their child and exclude others from making these choices, constrained by a duty to care for the child. Other theories provide more plausible support for parent-centered rights. [Brighouse and Swift \(2006\)](#) argue for parental rights on the basis of the good offered by parenting. Because parenting is a project with goods which cannot be obtained through other activities, such as the responsibility of caring for a child and the receipt of children's spontaneous trust, affection, and intimacy, the interest in parenting should be protected. They generate this account partly in response to the challenge of redistribution, or the notion that children should be redistributed at birth to the best prospective parents to maximize children's welfare ([Brighouse & Swift, 2006](#)).

[Hegel and Dyde \(1896\)](#) argued that biological relationship/procreation is the basis of parental love and responsibility, while [Brighouse and Swift \(2006\)](#) suggest that biology is irrelevant. The former assumes that biological parents always maintain the interest and ability to provide the love and support children need while the latter favors caregiving reassignment without considering the biological connection between caregiver and child. A more intermediate approach would involve the consideration and empirical assessment of all relevant variables. In this formulation, the love and support offered by a biological family can be weighed against the real-world benefits a child could receive outside of the family unit.

### **1.1. The Role and Duty of the State to Intervene in Child Protection**

One conception of the state's role as a guardian of rights can be found in social contract theory, which suggests that a person's moral and political rights and obligations are based on an agreement to form the society in which they live. Ac-

According to Hobbes (1968), the justification for state obligation is that man submits to state authority in exchange for living in a civil society. This authority provides the moral justification for protecting citizens within state boundaries. Kant (1999: §49) described a hierarchical relationship between the state and its denizen, arguing that, the state should, "... treat its subjects as members of one family but it also treats them as citizens of the state, that is, in accordance with laws of their own independence." Adults and children become part of the sovereign's family and benefit from the protections to which they are entitled.

While social contract theory is typically discussed in terms of political and criminal justice rights, the implication for child rearing is no less significant. The social contract assumes that children should be the responsibility of parents unless they are unable or unwilling to fulfill their obligations. Caregivers are entrusted to make important decisions for their children. Barring a physical danger to the child, these decisions are not regulated by the state. In exchange for the freedom to raise children unimpeded by state interference, the family concedes that the state can and should intercede if and when a child's health or safety is compromised.

Children need protection to become autonomous, emotionally healthy adults. Biological parents are charged with the initial responsibility to provide this care, with the state intervening when parents abdicate their duties. When abandonment occurs, the state assumes the protectionist role. This distinction is critical because it provides, first, the legal justification for intervention, and second, requires the state to determine what environment outside of the family unit can foster the best interests of the child. The state's role as child guardian is significant. The most challenging decision is determining what child rearing environment offers the best short- and long-term outcomes, as there is considerable variability in alternative caregiving environments. There is considerable diversity in childcare settings: a nuclear (two-parent) biological family; a one-parent biological family; kinship care; foster care; institutionalization in a private or state facility; domestic adoption; or international adoption. While it is common for children to experience multiple alternative childcare environments throughout childhood, the placement decision will ultimately dictate where children reside during their most formative developmental period. As such, it is important to evaluate the decision-making process and consider how practitioners select alternative child rearing environments that satisfy the child's best interests.

## 1.2. Decisionmaking and Alternative Child Rearing Environments

Gheaus (2012) has made the most compelling philosophical argument in favor of nonparental care, suggesting that when parental care is no longer a viable alternative, the two most important steps are accepting that "care" is a primary good, and second, determining what alternative environment can offer the best care. In the case of child placement, the primary practical consequence is often *identifying* the most suitable alternative child rearing environment. The choice of kinship care, institutionalization, or adoption, for example, is based on *ex-*

*pected* outcomes. Expected outcomes, however, do not satisfy the consequentialist's need for *actual positive outcomes*. Because consequentialism judges whether or not something is right by its consequences, the relevant outcome is determining where and with whom a child should reside if biological parents are no longer a viable option. The choice of where (i.e., environmental reassignment) and with whom (i.e., an alternative caregiver), however, should only be part of the calculus.

While choosing setting and caregiver is critical, child placement consequences are better assessed in terms of the child's acclimation *to* the unfamiliar environment and *with* the alternative caregiver. From an empirical perspective, outcome variables might include school attendance, improved hygiene, and emotional stability. If a surrogate caregiver prompts increased school attendance (which should lead to better academic performance), improved hygienic practices (because of ready access to soap and hot water), and greater emotional stability (because of less abuse), the consequentialist argues that "better outcomes" have been achieved.

The "outcome calculus" should be a fluid process. The consequentialist would argue that policymakers should assess potential and actual outcomes of the alternative childcare environment and caregiver perpetually, weighing practical outcomes against the *potential or anticipated* consequences of reunification. If conditions within the child's biological family improve, policymakers can then consider in which environment positive outcomes for the child can be best fulfilled. Institutionalization may also trigger negative outcomes which would have to be weighed against positive gains. In an RCI, children relinquish privacy and the familiarity of a birth environment. These negative consequences should be weighed against the positive outcomes offered by the facility and the potential positive and negative effects triggered by reunification. Ultimately, the issues for decision-makers include *how* alternative childcare decisions get made, what variables are considered when evaluating one setting over another, and whether there is an obligation for the state to reconsider the biological family as a suitable caregiver even after a child has been removed from the familial environment. Utilitarian thinkers would approach the determination with a cost-benefit analysis of advantages and disadvantages. The calculus would minimally involve weighing the love and emotional support that might be received with biological parents, along with the dysfunction that renders familial care impractical, against the advantages (e.g., regular access to education) and disadvantages (e.g., less privacy) of an RCI setting.

## **2. International Child Protection Law**

International children's rights law confers duties on global stakeholders, who are then charged with assuring that children are safeguarded from harms and have a supportive child rearing environment. A strong international child protection system can address the many interconnected risks that confront children and their families. The challenge is to create and sustain a system that respects the

familial institution while appreciating the challenges of poverty and parental apathy, as the child rearing environment is critical to shaping educational, emotional, health, and social outcomes. It is a practical reality that children cannot always be raised with biological family, as a multitude of micro- and macro-level variables sometimes make this difficult, if not impossible, to achieve. The challenge faced by decision-makers is to evaluate the efficacy of all child-rearing environments and surrogate caregivers and delineate a spectrum of alternatives that can be balanced against each child's specific needs.

Children should be shielded from economic exploitation and poverty, sexual abuse, and physical or mental violence, and all governments who adhere to international law are required to promote child protection consistent with international human rights standards. The "best interests of the child" (BIC) norm, the guiding principle in international children's rights law, is used by decision-makers to make placement decisions when parental care is compromised. Specifically, "in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration" (*Convention on the Rights of the Child (CRC)*, 1989). This standard requires balancing "all the elements necessary to make a decision in a specific situation for a specific individual child or group of children" (*CRC*, 1989) and assuring that all decisions are made to foster the child's happiness, security, and emotional development.

## 2.1. Best Interests of the Child

Article 3 of the Convention on the Rights of the Child (CRC) provides that the BIC standard should consider the rights and duties of parents, legal guardians, or other legally responsible persons. Under this principle, a decisionmaker must give the child's interest primary consideration. The principle affords flexibility because what is best for one child may not be so for another. The BIC standard is not about the outcome *per se*, but the process [i.e., the best interest determination (BID)] (*Hammarberg & Holberg*, 2005). Specifically, a BID "describes the formal process designed to determine the child's best interests for particularly important decisions affecting the child, that require stricter procedural safeguards ... and involves decision-makers with relevant areas of expertise and balances all relevant factors in order to assess the best option" (*United Nations High Commissioner for Refugees*, 2008: 8). To better understand the rights enjoyed by children, we explore the CRC, an instrument that *Mandela* (2006) referred to as, "... that luminous, living document that enshrines the rights of every child without exception, to a life of dignity and self-fulfillment." In addition, we evaluate the Guidelines for the Alternative Care of Children (*General Assembly*, 2010) [hereafter the Guidelines]. By delineating the overarching principles that guide international child protection, the CRC and Guidelines have played a critical role in fostering humanitarian progress for children during the past thirty years.

## 2.2. The 1989 Convention on the Rights of the Child

The CRC was the first international instrument to address child protection as it relates to removal from the family unit and institutionalization. Article 3 of the CRC (1989) states that, “States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.” The Convention not only contemplates the need for institutions, but provides official guidelines to follow when children are institutionalized, including provisions for suitable caregiving staff. Article 18(2) of the CRC (1989) states that, “for the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.” Article 18(2) contemplates a reciprocal relationship between biological family and the state, recognizing that there will be circumstances in which children will need to live outside of the family home.

Article 20(1) of the CRC (1989) states that children, “temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State” and that, “States Parties shall ... ensure alternative care for such a child.” Article 20 not only acknowledges the quagmire that some children cannot be raised by biological family, but suggests that child rearing outside of the family environment may be permanent. Article 20(3) of the CRC (1989) states that non-filial care “could include ... foster placement ... adoption or ... placement in suitable institutions for the care of children.” This was the first statement in international law where alternatives to biological child rearing were contemplated.

## 2.3. The 2010 Guidelines for the Alternative Care for Children

A UN General Assembly (GA) resolution is a decision or declaration voted on by Member States, usually requiring a majority to pass. While there is debate as to whether GA Resolutions are an authoritative source of international law, they derive their authority from the UN Charter and are intended to clarify existing Conventions, which *are* authoritative sources of international law. The Guidelines [2005: I(1)] “are intended to enhance the implementation of the Convention on the Rights of the Child and of relevant provisions of other international instruments regarding the protection and well-being of children who are deprived of parental care or who are at risk of being so.” In the Annex, the Guidelines suggest a preference for familial care above other options. Specifically, the Guidelines, “support efforts to keep children in, or return them to, the care of their family or, failing this, to find another appropriate and permanent solution, including adoption ... [2005: I(2)(a)].” While there is no mention of RCI in the

Annex, the Guidelines suggests that when familial care is contrary to a child's best interests, "the most suitable forms of alternative care" should be provided.

Section II of the Guidelines discusses the philosophical basis for childcare preferences. Like Hegel, who emphasized the importance of the family to child rearing, the Resolution states that, "the family being the fundamental group of society and the natural environment for the growth, well-being and protection of children, efforts should primarily be directed to enabling the child to remain in or return to the care of his/her parents, or when appropriate, other close family members" [2005: II(A)(3)]. The Guidelines intimate that the preferred caregiving environments are, first, biological parents, and second, kinship care. They emphasize the preference for biological family relative to alternative caregivers by stating that the "removal of a child from the care of the family should be seen as a measure of last resort and should, whenever possible, be temporary and for the shortest possible duration" [2005: II(B)(14)]. Moreover, the selection of alternative care settings "should take full account of the desirability, in principle, of maintaining the child as close as possible to his/her habitual place of residence, in order to facilitate contact and potential reintegration with his/her family and to minimize disruption of his/her educational, cultural and social life" [2005: II(B)(11)].

The Guidelines, emphasizing the obligations of the State when the family unit begins to dissolve, affirm that, "the State should ensure that families have access to forms of support in the caregiving role" [2005: II(A)(3)]. This is the first acknowledgment of State responsibility in the Guidelines. The Guidelines emphasize the interventionist duties of the State when biological parents are unable or willing to care for the child. Specifically, "the State is responsible for protecting the rights of the child and ensuring appropriate alternative care, with or through competent local authorities and duly authorized civil society organizations" and "to ensure the supervision of the safety, well-being and development of any child placed in alternative care" [2005: II(A)(5)]. The Guidelines not only affirm the role of the State to intervene when families are unable to care for their children but underscore the *community-level involvement* in the decision-making process.

Taken collectively, the Guidelines suggest a hierarchy of preferred childcare environments, beginning with biological parents and kinship care, with RCI then discussed as "alternative care" options. The Guidelines indicate that the "use of residential care should be limited to cases where such a setting is specifically appropriate, necessary and constructive for the individual child concerned and in his/her best interests" [2005: II(B)(21)]. The phrase "limited to" suggests that residential care should be considered only when all other options have failed to serve the child's best interests. Among the plethora of institutional options, the Guidelines offer guidance for facility preference. They state that, "while recognizing that residential care facilities and family-based care complement each other in meeting the needs of children, where large residential care facilities (institutions) remain, alternatives should be developed in the context of an overall

deinstitutionalization strategy, with precise goals and objectives, which will allow for their progressive elimination [2005: II(B)(23)]. Here, the Guidelines prioritize certain types of residential childcare models over others, promoting “family based care,” over “large residential institutions.” Most importantly, the Guidelines suggest that these “large residential care facilities” be eliminated as part of a deinstitutionalization strategy, which would seem to exclude one potential setting that could serve in the child’s best caregiving interest.

While the Guidelines emphasize the family—biological parents and then kinship care—as preferred caregivers, the ultimate goal in any placement determination is for the child to “live in a supportive, protective and caring environment that promotes his/her full potential” [2005: II(A)(6)] and to ensure “the child’s safety and security, and must be grounded in the best interests and rights of the child” [2005: II(A)(6)]. Here, the Guidelines reinforce that the decision-making process must use the BIC to determine the optimal caregiving environment. It is not clear, however, how a BID can reflexively assign a preference to one particular setting or caregiver over another.

### 3. Residential Childcare in Armenia

Armenia acceded to the CRC in June 1993,<sup>1</sup> and this obligation requires adherence to the BIC standard. Historically there have been two types of RCI in Armenia: orphanages and special boarding schools. Armenia’s orphanages are full-time residential facilities for healthy and special needs children. The children housed in Armenia’s orphanages are either natural orphans or social orphans. Natural orphans have been permanently relinquished to the institution and, barring foster care or adoption, are institutionalized until at least the age of eighteen. Parents of social orphans retain legal rights over their children but have temporarily ceded those rights to the facility. Armenia’s special boarding schools house healthy and special needs children who have been referred for institutionalization because of disability, truancy, and/or delinquency. Because of their disabilities and perceived danger to the community, they do not attend public school. Rather, those children who are developmentally healthy are educated within the special boarding school environment. Unlike the orphanages, children in the special boarding schools rarely leave the facility. They eat, sleep, are educated, and socialize within the institution.

There are several distinguishing factors among Armenia’s residential childcare facilities. First, there are private *and* state RCI in Armenia. There are no private, special boarding schools, but several orphanages are private. Inversely, several of the orphanages, and all of the special boarding schools, are state managed. Second, all Armenia’s state institutions, and several of the private facilities, distinguish by age. Children under the age of six are housed in different facilities than those between the ages of six and eighteen. Third, the facilities distinguish by disability (i.e., healthy children are separated from those with special needs).

<sup>1</sup>[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=8&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=8&Lang=EN) (accessed October 21, 2022).

Fourth, there are four transitional centers in Armenia that house healthy, older teenage girls who have outgrown the traditional orphanage but who are not yet ready for independent living. Because there is compulsory military service for males at age 18, there are no transitional centers for males. Of the 21 RCI in Armenia, there are 13 orphanages, four special boarding schools, and four transitional centers.

Within the past two years, access to Armenia's RCI has triggered several empirical works that have reshaped the philosophy of child protection (Yacoubian & Bardakjian, 2022; Yacoubian, 2022a, 2022b; Yacoubian, 2021). Unlike in other countries where central branches of government routinely decline admission to RCI, access to the state and private facilities in Armenia not only affords opportunities to conduct primary research with a vulnerable population of youth but also suggests that humanitarian organizations are a gateway to access that would be impossible for traditional human rights monitoring organizations. Our relationship with the national authorities and institutional directors in Armenia is a product of trust, mutual respect, and a willingness to address human rights issues without condemning any specific practices.

Our recent research suggests that RCI compliant with international law offers residential childcare opportunities that may supersede those of family care. In early 2020, we explored six constructs among a sample of children housed in Armenia's RCI: abuse and neglect; education; food safety; hygiene; institutionalization and reunification; and sexual abuse (Yacoubian, 2022a). Almost all of the children (93%) reported getting to school on time, going to school every day (93%), and receiving help with homework from facility staff or from other children in the institution (94%) (Yacoubian, 2022a). With respect to abuse and neglect, 96% reported that no one at the facility ever made them feel scared or unsafe. A high majority (97%) reported never having been touched or been asked to touch someone else in a sexual way, and no children had ever been offered money to do sexual things (Yacoubian, 2022a). With respect to hygiene, almost all of the children did not wear clothes (97%) or shoes (96%) that smell, used deodorant (66%), and washed their entire body (99%) (Yacoubian, 2022a). Most recently, 160 children housed in Armenia's RCI were interviewed between February and May 2021 (Yacoubian & Bardakjian, 2022). Results indicated that the children perceive each other as siblings, while the relationship between the children and directors is nurturing and supportive (Yacoubian & Bardakjian, 2022). Taken collectively, these findings suggest that Armenia's RCI offers a loving and emotionally protective environment within which society's most vulnerable children can be reared with potentially lower risk of negative, long-term outcomes. The lessons learned from this study shed light on how best to develop policies advancing international child protection. While biological families may be perceived as serving the best interests of the child because of a genetic relationship, the dismissal of RCI as efficacious alternatives is misguided. Rather than reflexively advocating for their repudiation, which may deny vulnerable children a *de facto* familial environment, decision-makers should weigh the conse-

quences of child rearing with biological family against *all* alternative environments, including institutionalization.

#### 4. Discussion

While our research should allow decision-makers to reconsider the negative stigma associated with international RCI, more work is needed. First, our findings are based on research conducted in Armenia, a culturally homogenous, Christian, democratic, second-world nation. The extent to which these findings are generalizable to other countries is an empirical question that can only be answered with future research. While there is no reason to believe that our research methods are not suitable for replication, the protocol will likely need to be adjusted to accommodate radically diverse cultures. That said, Armenia's RCI are markedly different than the traditional "orphanages" studies during the past few decades.

Second, our earlier work (Yacoubian, 2022a) focused only on six human rights concepts. When this project was conceived, it was intended to be a first step into the impalpable world of residential childcare in Armenia. Toward that end, certain constructs, like routine medical care, were excluded. Future studies should expand the quantity of human rights domains or focus on a smaller number of concepts in greater detail.

Third, the data collection protocols we employed involved a multimethod approach with various advantages and disadvantages. While self-report data collection is inexpensive, can be performed quickly, and can be anonymized to protect sensitive information, it has limitations. Respondents may distort when they convey subjective experiences and many individuals may be influenced by "social desirability," the tendency to give socially desirable responses instead of choosing responses that reflect their true feelings (Latkin et al., 2017). Potential bias may intensify when the study involves provocative topics, such as politics and religion, or sensitive, personal issues like criminal activity, drug use, and sexual abuse.

Fourth, the ramifications of institutionalization on outcomes measures into adulthood are unknown. Longitudinal studies would offer the most scientifically defensible approach for studying the impact of alternative caregiving environments on development. The ideal research design would match children in two-parent households (across gender and age minimally) to children raised by single parents and in kinship care, children in RCI and foster care, and children adopted domestically and internationally. By tracking the samples from infancy through adulthood, the caregiving environments can be evaluated across a variety of outcomes, including alcohol and drug use, criminal involvement, general happiness, education, job history, income, and emotional maturity.

Methodological limitations aside, RCI should provide a safe place for children to experience caring relationships, learn new skills, and develop a sense of normalcy. An essential starting point is determining what type of environment will

best meet the needs of children. Historically, RCI have been a place where children are housed, four walls providing some degree of shelter from the outside world. Instead, they should be a restorative venue, a therapeutic milieu offering a respite from the stress and overwhelming challenges children experience in their homes, schools, and communities. Caregivers should serve as mentors, teachers, and advocates. By providing normal developmental experiences, staff can enhance the child's opportunities for achieving normal outcomes (Hawkins-Rodgers, 2007). This is best accomplished by creating and sustaining a well-designed and nurturing setting where children can develop life skills, emotional regulation, and empathy.

Residential staff are often perceived as uncaring, untrained, and underpaid. Because a safe environment is critical to successful institutional care, efforts should be made to educate caregivers in evidence-based protocol. The prevailing argument against institutionalization is that facility personnel, as paid staff and unrelated to the children, cannot substitute for biological parents. What remains unknown is whether facility personnel can be trained to treat the children properly such that their roles as *de facto* parents offer a suitable caregiving substitute within the institution. The purpose of an RCI is to provide a safe place for children to experience caring relationships and learn new skills. Institutional staff should be prepared, educationally and emotionally, to serve as surrogate family for the children in their charge. Taking an attachment paradigm means training caregivers to provide nurturing, empathic and playful interactions with children in order to build their sense of security, belonging, and being loved.

The Residential Child Care Project at Cornell University is intended to improve the quality of care for children living in residential childcare facilities. The Children and Residential Experiences (CARE) Model provides engaging, compassionate, and stimulating experiences by creating a culture of "developmentally enriching relationships" and a "sense of normalcy" (Anglin, 2002). The CARE curriculum incorporates six evidence-informed principles (relationship-based; trauma informed; developmentally focused; family-involved; competence-centered; and ecologically-oriented) and three key processes (reflective practice, data-informed decision-making, and participatory management) into the daily practice of the facility (Holden et al., 2010).

CARE principles "enable the organization to realign or reallocate resources, to set priorities, and to create a culture that helps children grow and develop through enhanced interactions focused on strengthening attachments and relationships, building competencies, adjusting expectations to account for children's developmental stage and trauma history, involving families in the child's care and treatment, and enriching dimensions of the environment to create a more therapeutic milieu" (Holden et al., 2010). The overall efficacy of the CARE Model has been positive across a variety of outcomes, including staff reactions to the CARE training, staff knowledge and beliefs, and child perceptions of relationship quality (Holden et al., 2010).

Reflexively advocating for the eradication of all RCI is a short-sighted approach to child rearing. Residential institutions shield children from life-threatening problems that exist within the family unit, offering a safety net to combat the human conditions that permeate the family structure. Rather than proposing *no* residential environment for socially vulnerable children, a more reasoned approach would be to create and sustain facilities that are emotionally comparable to the family unit. By revolutionizing the care provided within the institution and revamping the social system within which these facilities are monitored, states can reconsider RCI as alternatives to familial care.

## 5. Environmental Reassignment

Population control and regulation by the state and/or medical professionals are accomplished to protect the subject or the general public. Drawing on incarceration and residential substance abuse literature, “permanent environmental reassignment” holds that people can and should be removed to alternative living environments if a determination is made that said removal is in their best interests and/or that of the community. In the context of child protection, environmental reassignment suggests that, on a case-by-case basis, children can and should be removed from the care of biological family when their best interests are compromised within the home environment and that, if circumstances require, that removal be permanent.

Incarceration serves as the prime example of social control and exemplifies how members of society (i.e., accused and convicted criminals) are removed from law-abiding society to both advance individual (e.g., rehabilitation and specific deterrence) and societal (e.g., incapacitation, general deterrence, and retribution) penal aims. The philosophical rationale for this “reassignment” from free society to an incarcerative setting is ultimately irrelevant, as is the empirical support for any of the traditional aims of punishment. What is most important is that all legal systems allow for the forced removal of criminals from law-abiding society to an incarcerative setting. For society’s most egregious offenses—such as an intentional, premeditated homicide—the death penalty may be imposed, or the offender may be sentenced to life without parole. In either scenario, the criminal offender’s environmental reassignment is permanent.

Alcohol and other drug (AOD) addiction is a chronic struggle, and relapses occur even after prolonged periods of sobriety. While individuals can voluntarily enter residential substance abuse treatment, forced admission can be compelled through the criminal justice system, as part of a diversionary program, or as a condition of imposed through disposition (i.e., sentencing). That is, the criminal justice system can be required as a condition of pretrial release, probation, or parole. Whether residential AOD treatment increases the likelihood of sobriety or other positive long-term outcomes or unfairly restricts a person’s liberty is irrelevant. For the purposes of “environmental reassignment”, key decision-makers within the criminal justice system (e.g., judges and probation officers) have the authority to compel confinement in an AOD treatment facility.

The international community generally, and Armenia specifically, should *encourage* institutionalization as an alternative to family-based child rearing when care is compromised. If “family” care offers the environment within which a child’s interests are best served, forging a surrogate, permanent family is imperative. While the child placement calculus is challenging, the BIC standard requires that practitioners espouse permanent environmental reassignment as part of the plethora of alternative settings and surrogate caregivers available to children when care from biological parents is no longer possible or in the child’s best interests.

### Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

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