Lumos Submission to the Open-Ended Intergovernmental Working Group on an optional protocol to the Convention on the Rights of the Child

Introduction

Lumos is an international NGO working to ensure that all children grow up in safe and loving families within supported communities by transforming care systems around the world.

Lumos welcomes the decision by the Committee on the Rights of the Child to explore the possibility of an optional protocol to the Convention, focused on education, and is grateful for the opportunity to contribute to the first session of the Open-ended intergovernmental working group. We especially note and appreciate the stated commitment to the Optional Protocol explicitly recognising that the right to education includes early childhood care and education. Many children around the world face significant barriers to accessing education in their communities: in this submission, we will focus on these barriers, how they relate to the separation of children from their families and innovative solutions which can overcome these barriers.

All children have a right to both education and to live with their families (as enshrined in CRC Articles 7, 9 and 18),[1] the CRPD (Articles 7.1, 23.4 and 23.5)[2] and the UN Guidelines on Alternative Care.[3] Despite decades of research showing that the best place for a child to grow up is in a safe and loving family, there remain an estimated 5.4 million children living in institutional care worldwide.[4] The role that access to education plays in driving children into institutions is significant: since 2023, Lumos has been undertaking focused research and advocacy into the role that residential education institutions play in the global picture of child institutionalisation. In many cases, a lack of high-quality education in the community drives children into residential education institutions: this includes children with disabilities, for whom no local inclusive education is available, children in remote and rural areas where schools are few and far between, and children from ethnic and religious minorities who are placed into residential education to assimilate them into the predominant culture of their state. While these residential education institutions are ostensibly designed to facilitate access to education, they frequently replicate institutional norms and practices which have been proven to cause profound harm to children. Too often, the barriers children face to accessing accessible, quality education in their communities force their families to make the impossible choice between their child's right to education and their right to family.[5]

[1] UN Commission on Human Rights. (1990). Convention on the Rights of the Child. E/CN.4/RES/1990/74. Articles 9, 7 and 18.
[2] UN General Assembly. (2006). Convention on the Rights of Persons with Disabilities. A/RES/61/106. Articles 7.1, 23.4 and 23.5.
[3] UN General Assembly. (2010). Guidelines for the Alternative Care of Children: resolution adopted by the General Assembly. A/RES/64/142. Paragraphs 9 and 15, and articles 32, 33, 34 and 38.
[4] Desmond, C., Watt, K., Saha, A., et al. (2020). Prevalence and number of children living in institutional care: global, regional, and country estimates. The Lancet Child & Adolescent Health. 4(5): 370-377.
[5] Lumos "Learning Curves: A Global Review of Education and Institutional Care" https://www.wearelumos.org/resources/learning-curves-a-global-review-of-education-and-institutional-care/ [Accessed 16 May 2025]

Being in residential education can and does harm children's health, wellbeing, and development, just like other forms of institutionalisation.[6],[7] Any positive outcomes which do occur for some children in residential education settings co-exist with and can be undermined by many negative outcomes. Solutions to barriers to education which simply drive children into institutions, as the only available option to access education, must therefore be urgently reassessed and redesigned, and we urge the open-ended working group to explicitly address them.

What are the main barriers to public pre-primary and secondary education available free to all in law, policy, and practice and what is their impact on the rights of the child? (Guiding questions 1 and 2, responded to together)

Defining Residential Education Settings

For the purposes of our work, Lumos has distinguished between two types of residential service: residential care settings and residential education settings. They can be conceptualised as:

- **Residential Care Settings** which usually form part of a child welfare system and are primarily for children assessed as needing out of home care. Children may attend local schools or receive education on-site.
- **Residential Education Settings** set up specifically to provide education, although they may provide other services as well.

Residential education institutions are not always or typically perceived as "traditional" institutions. They frequently fall under the responsibility of Ministries of Education rather than the social care or child protection services. But they can share many of the same institutional characteristics and risks as other residential care settings, for example by isolating children from their families, or prioritising rigid routines which override individual needs or preferences. In 2024, UNICEF ECARO launched a White Paper on the role of boarding schools for vulnerable children in the Europe and Central Asia region. This paper provided important definitions of boarding schools and other residential educational settings in the region as being "part of the continuum of alternative care", and recommended that states "regulate them as social care providers, and include them in deinstitutionalisation and child care reform policies and programmes."[8]

[6] Kheir, A. E., Dirar, T. O., Elhassan, H. O., et al. (2012). Xerophthalmia in a traditional Quran boarding school in Sudan. Middle East African Journal of Ophthalmology. 19(2): 190; Olugbemi, T. B., Uthman, M. M. B., Ahmed, A., et al. (2019). Nutritional status of day and boarding students attending school for special needs in North-central Nigeria. Research Journal of Health Sciences. 7(1): 19-27; Wang et al, 2016 op.cit.; Hope and Homes, op.cit.; Mutluer, T., Fatih, P., Tayakısı, E., et al. (2021). Psychopathology and Dissociation among Boarding School Students in Eastern Turkey. Journal of Child & Adolescent Trauma. 14(2) : 201-207

[7] Pfeiffer, J. P., & Pinquart, M. (2014). Bullying in German boarding schools: A pilot study. School Psychology International. 35(6): 580-591; Gomba, C., & Zindonda, P. (2021). Bullying at a Zimbabwean Boarding School: Views of Bullies, Victims, and Bystanders. Anatolian Journal of Education. 6(2): 37-50.

[8] UNICEF ECARO "The role of boarding schools for vulnerable children in the Europe and Central Asia Region (2024) https://www.unicef.org/eca/media/34266/file/The%20role%20of%20boarding%20schools%20for%20vulnerable%20children.pdf [Accessed 15 May 2025]

Case Studies from Lumos' Programmatic Work

In order to inform the Open-ended intergovernmental working group's development of an Optional Protocol, we present two case studies which illustrate two different sets of barriers to education, both of which drive or have previously driven institutionalisation. Lumos's work in Moldova highlights how a lack of access to community-based inclusive services can act as a barrier for children with disabilities accessing education, also highlighting the fundamental importance of early childhood care and education. In Colombia, the large territory and presence of non-state armed groups act as significant barriers to education and drive institutionalisation of children in rural areas.

Moldova

Lumos has been working in Moldova since 2006, acting as a key partner of the Moldovan Government throughout the country's process of care reform, which has so far seen an 88% reduction in the number of children in institutions.[9] Reforming the education system has been a key part of this care reform process. Following its independence from the Soviet Union, Moldova had inherited a system in which institutionalisation was a common response to child welfare concerns, while community-based support services, including inclusive education, for children and families were lacking.[10], [11] Children with disabilities in residential education settings under the Ministry of Education accounted for the majority of children in institutional care.[12] This meant that the development of a robust system of inclusive education services was key to ensuring successful holistic care reform.

The development of inclusive education in Moldova led to a continuing decrease in the number of children in residential institutions, with more and more children with special educational needs and disabilities having instead been able to attend mainstream schools.[13] By 2021/22, 94% of the 101,000 children with SEND enrolled in the education system were attending mainstream schools.[14]

Early Childhood Intervention Services

As Moldova's progress in care reform continued, the urgent need for support for children at pre-primary level with disabilities was apparent. Due to an absence of any integrated Early Childhood Intervention Service, only 7% of children under 5 with a disability were receiving services at the regional or community level in 2017, according to Lumos's research.[15]

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[9] UNICEF (2022). Situation Analysis of Children and Adolescents in Moldova.https://www.unicef.org/moldova/media/8361/file/Situation%20Analysis%20of%20children%20%20and%20adolescents%20in%20the%20Republic%20of%20Moldova!.pdf [Accessed 14 May 2025].

[10] UNICEF(2022),Op Cit

[11] CELCIS (2016). Final Report: Evaluation of the Lumos Deinstitutionalisation Project in the Republic of Moldova districts of Floresti andIaloveni. Unpublished; on file with Lumos.

[12] Evans, P. (2013). Evaluation Report: Implementation of the National Strategy and Action Plan for the Reform of the Residential ChildcareSystem in Moldova 2007-2012. https://bettercarenetwork.org/sites/default/files/attachments/Evaluation%20Report%20-%20Implementation%20of%20the%20National%20Strategy%20and%20Action%20Plan%20for%20the%20Reform%20of%20the%20Residential%20Childcare%20System%20in%20Moldova%202007-2012.pdf [Accessed 14 May 2025].

[13] UNICEF(2022),Op Cit

[14] National Bureau of Statistics (n.d.). Educația [Education].https://statistica.gov.md/files/files/publicatii_electronice/Copiii_Moldovei/Infografice/2022/Educatie.pdf [accessed 14 May 2025].

[15] Lumos, "Developing an Early Childhood Intervention System for Children with Disabilities" (2023) https://www.wearelumos.org/resources/developing-an-early-childhood-intervention-system-for-children-with-disabilities/ [Accessed 16 May 2025]

For these reasons, in 2019 and 2020 Lumos piloted an innovative model of Early Childhood Intervention services (ECI). The model ensures all children with disabilities have access to the required support at the community, regional, and national levels. As a result, the Government of Moldova developed and approved a National Plan for Early Intervention Services. The ECI service in Moldova has already had a major impact; 100% of parents surveyed reported satisfaction with the services their children received and 79.8% of children who received ECI support showed improvements in their cognitive skills.[16]

Inclusive Education Units

The positive effects of inclusive education for children with disabilities were demonstrated through the establishment of an inclusive education unit (IEU) by Lumos in one mainstream school in Ialoveni.[17] The IEU enables access to primary and secondary education for children with profound disabilities and complex needs, and inclusive kindergartens in the area ensure that younger children are able to access pre-primary education.

Children receive education, social support, and therapies as needed, the support of specialist staff, accessible transport and assistive technology. They are included in the general education programme with appropriate additional support. Children and young people with disabilities, many of whom had lived experience of institutionalisation, actively participated in designing and developing this service. Following an evaluation of the Unit by an international expert, the model was recommended by the Ministry of Education to be replicated in other regions of the country, although to date this has not yet taken place. One parent said of the IEU: "*When my 9-year-old was in kindergarten, he couldn't speak or hold a pen. [But at the IEU] we've registered good progress. He fulfils all tasks: colours, figures, number,… He's patient and he understands more.* ***It is easier as a mother…We are a united family."***[18]

Colombia

The Colombian Government's rural education strategy aims to provide access to education for children from remote rural communities who may otherwise be unable to attend school through the use of 'residential educational settings known as internados.[19] The government also hoped that these internados might provide protection from armed violence in some regions of the country.[20]

It is commendable that the government has put in place such a strategy. However, internados are characterised by an institutional culture which isolates children from their communities and fails to provide individualised care due to high child-to-carer ratios. There are investigations which indicate that the children in internados are not in a safe environment, and that they are exposed to different situations of violence including sexual violence, forcible recruitment by armed groups, negligent care during the nighttime, amongst others.[21]

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[16] Op Cit. Lumos (2023)

[17] Lumos, "Moldova Case Study: Global Thematic Review on Education" (2023) https://www.wearelumos.org/resources/moldova-case-study-global-thematic-review-education/ [Accessed 16 May 2025]

[18] Quotes from a focus group with parents of children using the IEU, conducted as part of an external evaluation of the service. UCL (2019).Inclusive Education Unit: Inclusion Model for Children with Profound Disabilities and Complex Needs: Evaluation Report. Unpublished – on file with Lumos.

[19] Ministerio de Educación Nacional (2018). Plan Especial de Educación Rural [Special Rural Education Plan].https://www.mineducacion.gov.co/1759/articles-385568_recurso_1.pdf [accessed 14 May 2025].

[20] Norwegian Refugee Council (2016). Colombia: Education is key to end the violence ([webpage].https://www.nrc.no/news/2016/des/colombia-education-will-be-key-to-end-the-violence/

[21] Alianza por La Niñez Colombia and Lumos "Colombia en dueda con la niñez: Inform de la Sociedad Civil." 2025

While the use of internados undoubtedly enables many children from rural areas to participate in schooling in Colombia where otherwise they would not, this approach comes at a price: that of children's right to grow up and thrive within families. In fact, there are nearly three times as many children in Colombia living in internados as there are living in child protection institutions.[22]

For many children in internados, long distances and poor communication infrastructure prevent regular contact with their families. internados are often far away from the communities they serve; an issue exacerbated by poor transportation options and infrastructure. These challenges inevitably make it difficult for many families to play a meaningful part in their children's everyday lives. All of this means that children's enjoyment of their right to family life is fundamentally compromised.

The 2018-22 Colombian government administration included a strategy entitled the "*Pact for Colombia, Pact for Equality"* within its National Development Plan,[23] which included objectives for improving rural education. Proposed developments included improving physical conditions within internados, engaging families more in children's education, and introducing much needed regulations within the system. These proposals may help to mitigate some of the risks associated with residential care, but they cannot overcome the problem that this model of education separates children from their families, perpetuating the harms that derive from ongoing separation and violating their right to a family life. Furthermore, investment in institutions has been shown to disincentivise eventual closure or transformation of those institutions.[24]

As long as the barriers to children accessing quality education in their communities continue to exist, children will continue to be separated from their families. Innovative approaches, tailored to specific communities and their needs, and strong coordination and joint planning between stakeholders are required to address the barriers which continue to push children into residential education institutions.

Recommendations to the Open-ended intergovernmental working group:

- The Optional Protocol must **address the barriers to all children accessing education, including pre-primary and secondary education, within their communities**, including a lack of inclusive education provision, physical barriers to attending school, particularly for children in rural areas, and financial barriers.
- The Optional Protocol must recognise that while all children must have access to education, they also have **a right to a family life**, and families must not be put in positions where these two rights are effectively in conflict with each other. States must ensure that children's access to education does not come at a cost to their right to a family life by providing high-quality community-based education for all children.
- The Optional Protocol must compel states to undertake a **holistic approach to the issues of education and child protection**, ensuring that stakeholders for all relevant agencies work together to protect all child rights.

[22] Mission Information System - SIM. ICBF, June 2024.
[23] DNP (2019). Bases Plan Nacional de Desarrollo, 2018-2020.https://colaboracion.dnp.gov.co/CDT/Prensa/BasesPND2018-2022n.pdf [accessed 14 May 2025].
[24] European Coalition for Community Living (2010). Wasted Time, Wasted Money, Wasted Lives … A Wasted Opportunity? https://www.researchgate.net/publication/239781583_Wasted_time_wasted_money_wasted_lives_a_wasted_opportunity [accessed 14 May 2025].