

A SNAPSHOT OF ALTERNATIVE CARE ARRANGEMENTS IN COLOMBIA



SOS CHILDREN'S
VILLAGES
INTERNATIONAL

*Based on SOS Children's Village's assessment
of a state's implementation of the UN Guidelines
for the Alternative Care of Children.*



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In 2011, SOS Children's Villages International, along with child rights experts Nigel Cantwell and Prof. June Thoburn, developed an assessment toolⁱ to measure a state's implementation of the UN Guidelines for the Alternative Care of Children. This tool is meant to be used as research foundation for countries participating in the SOS Children's Villages global advocacy campaign: Care for ME! *Quality Care for Every Child*.

The assessment tool is a long and complex diagnostic instrument. Undoubtedly, many states will not have sufficient data available to answer all the questions contained in the assessment and no single state will have implemented all the provisions for family support and alternative care as laid out in the UN Guidelines for the Alternative Care of Children. Nevertheless, SOS Children's Villages national associations were asked to complete as much of the tool as possible, given the available data in their country. The three main steps for completing the assessment are:

1. Desk research of existing secondary and meta data, from state, non-state and international sources;
2. Interviews with key service providers, service users and management; and
3. Compilation of the final report, including this summary.

A full version of the original data can be made available upon request. Requests can take up to 90 days to complete the request. Please contact Emmanuel.sherwin@sos-kd.org for further assistance and questions.

The target groups of this study are: can be defined as:

Children in alternative care: Those children and young people who, for any number of reasons, live outside their biological family and are placed in formal or informal care arrangements such as residential care, SOS families, foster care or kinship care.

Children at risk of losing parental care: children whose families are in difficult circumstances and are at risk of breaking down. They may be experiencing any number of challenges including, but not exclusively: material poverty, substance abuse, poor parenting skills, disability behavioural issues.

A full version of the original data can be made available upon request. Please contact Emmanuel.Sherwin@sos-kd.org for further assistance and questions.

Next Steps

SOS Children's Villages calls on all states, civil society partners, inter-governmental agencies, human rights institutions and individuals, to use the data contained in this report to defend the rights of children and families. To work together or individually to bring about a lasting change in a child's right to quality care. If possible, in each of the countries where the assessment was carried out, SOS Children's Villages, in cooperation with key partners, will initiate an advocacy campaign on one or more of the recommendations contained within the report. Please contact the SOS Children's Villages national office if you wish to know more, support or become involved in the campaign.

Disclaimer:

While all reasonable efforts have been made to ensure the accuracy and legitimacy of the data in this report, SOS Children's Villages cannot be held liable for any inaccuracies, genuine or perceived, of the information retrieved and presented in this document. The purpose of this report is to offer an insight into the state's attitude and recourse to alternative care and any human rights violations therein. SOS Children's Villages will not assume responsibility for the consequences of the use of any information contained in the report, nor for any infringement of third party intellectual property rights which may result from its use. In no event shall SOS Children's Villages be liable for any direct, indirect, special or incidental damage resulting from, arising out of or in connection with the use of the information.

Executive summary

The objective of this report is to identify Colombia's status in regards to compliance with the *United Nations Guidelines on the Alternative Care of Children* and the *UN Convention on the Rights of the Child* (UNCRC), which it ratified in 1991. It identifies the areas where it is necessary to take legal, political, operative and instrumental measures to improve the care of children. The research was conducted by the analysis of documentation from state bodies in charge of alternative care and 15 interviews with experts or people working directly with this issue.

One of the main findings of this report was that there is simply not enough publicly available information on children who have lost parental care. The qualitative data collected from different sources found that figures are not comparable and this distorts the overall picture. This makes it difficult to analyse the number of children without parental care or at risk of losing it, and make a thorough assessment of the state's ability to realise its obligations under the UNCRC.

Due to the lack of information there are three main concerns that the study raises: a) the extent of informal care; b) the lack of preparation and support for the modification of alternative and leaving care options; and c) issues such as protection, violence and the handling of complaints, which appear to be weakly regulated by government legislation and are subject to high levels of discretion.

While these are the most critical issues to address, the report identifies three practical conditions that contribute to poor services and need to be addressed to ensure that children are protected from abuse: a) low or non-existent child participation in their own admission and decision-making processes; b) the working conditions of family advocates, field co-workers and core care co-workers are poor, as they have comparably low salaries, a high number of cases, high turnover of staff and mental health issues; and c) there is an ineffective family strengthening process that should help to prevent children entering the protection system in the first place, or promote a family reintegration processes.

Results

The National Survey on Demographic and Health (ENDs) found that in 2005, 57.9% of children between the ages of 0–15 lived with both their parents; 31.1% lived with only one of their parents (30% with their mother and 3.1% with their father); 7.8% of children lived with foster parents; and there was no information on the remaining 3.1% of children. Children living in institutional care were not included in this data. Such a large number of children living in alternative care arrangements – 965,270 children – is concerning given that many of these are in informal care with neighbours or friends without arrangements being regulated by the law, and without effective monitoring of their risks and vulnerability to exploitation.

The 2005 Census found that there were 7,075 children living in institutional settings; 450 were placed in 'children's homes' in both urban and rural settings, with the others placed in boarding schools and other forms of accommodation, such as shelters. The 2008 SOS Children's Villages CRSA study found that the number of children living only with their mothers had decreased by 0.8% and those only living with their fathers had decreased by 0.4% since 2005.

Legal and institutional arrangements

Colombia does not have a unified legal or administrative system, dedicated to child protection, but a national family welfare system, formed by public and private institutions that provides services and develops actions related to the protection of children and their rights. It is governed and regulated by the Colombian Institute of Family Welfare (ICBF). The family welfare system is mandated by the *Childhood and Adolescent Code*, which replaced the *Code of Minors* and extended the concept of the child to that of a 'rights holder', in line with the UNCRC and the Constitution.

Children can be removed from the care of their parents when their rights are threatened or violated. Where these cases are identified, children are placed under the care of the family welfare system. However, there is inequality in the system as although the law protects children from being separated from their families due to poverty,ⁱⁱ research suggests that poverty and inequality are the most common causes of family separation.ⁱⁱⁱ In addition, children suffering serious abuse (physical and sexual) in more affluent families often see little action taken, as cases are rarely reported or are handled privately.

In 2000, the *Criminal Code* was strengthened, providing a penalty of four to eight years' imprisonment for any person 'physically or psychologically abusing any family member'.^{iv} This increased the responsibility of the family commissioners and the police, to remove children immediately from abusive family environments. As such, the country has made some progress in regards to the status and protection of children, but there remain legal gaps and implementation is weak.

Despite progress made by the *Childhood and Adolescent Code*, the legislation does not provide a category of 'children deprived of parental care', which limits actions for children returning to their families of origin, placed with extended family or becoming adopted; the regulations do not consider children who do not have these options. This ultimately leads to siblings not being kept together, due to capacity problems or because some of the sibling group is adopted.

There is also a lack of consideration for young people leaving care. The *Code* protects children up to 18 years old, but there is no public policy for young people leaving care.^v This is a significant issue, as these young people often lack social, professional and academic skills. For this reason, several representatives of the family welfare system and protection institutions agree that the support must be extended to them.

Implementation of the *Childhood and Adolescent Code* has not been fully realised and lacks guidance in terms of linking the services and interventions offered, thus hindering the delivery of services to children. In practice it is not clear which bodies are part of the system, or their roles and responsibilities in relation to the way the system operates.^{vi} In 2010, the Observatory on Childhood (OBSSI, National University of Colombia) indicated that stakeholders in the protection system identified gaps and lack of clarity and that there is still a

lot of discretion in the way that it functions, leading to legal insecurity for children. The system lacks principles to determine the responsibilities of each state agency, and there is a lack of operational, technical and human resources to coordinate the activities of state institutions.

Officers in the public entities cited lack of support for interventions and that they are poorly equipped, trained and supported to deal with the multiple issues that can directly affect children's lives and lead to family interventions, such as addiction, unemployment, poverty, inadequate living conditions, mental health issues and problems accessing public services. The UN Child Rights Committee has expressed concerns over the insufficient resources and support in areas that the ICBF does not cover; there are concerns over a) lack of family strengthening programmes; b) scarce development of support structures for families at risk, leading to lengthy stays in institutional care; c) the way in which the institutionalisation programmes are developed where the integral protection perspective has not been strengthened yet; d) the lack of development of adoption measures; and e) the lack of programmes within institutions supporting leaving care training of adolescents for whom adoption is not a suitable possibility.^{vii}

The capacity of family advocates is not adequate to ensure that all children are protected. In Colombia a family advocate and the field co-workers may handle between 170 and 250 cases each, which means that timely follow-up is not always possible. Personnel tend to be hired through service provision orders,^{viii} or cooperatives, which results in lack ownership and low levels of commitment, as their contracts are renewed on a six monthly basis.^{ix} In 2010, 1,018 family advocates were registered to assist a potential population of over 14 million children and adolescents. The OBSSI estimated that if family advocates have 170 cases and work 40 hours per week, they would only have one hour per month to dedicate to each child, not considering the new cases that they may become responsible for during that time. This combined with low salaries and insufficient education and training means that there is a high incidence of 'burn out' leading to low standards and a high turnover of staff.

ICBF reports indicate that most institutions that provide protection services are registered, but not all of them are adequately monitored. There are also a number of organisations that operate illegally, but these are only identified when complaints are registered through other services, such as the education and healthcare systems, or with the Family Commission. Some organisations lack awareness of the need to register their services, while others operate without registration to avoid sanctions, such as unauthorised adoption agencies. As such, many institutions are unregulated, which can lead to abuse and exploitation.

Abuse has been identified in child protection services, including neglect and sexual abuse; but the extent of reporting and monitoring of these cases is low. When the ICBF is made aware of such cases, a supervising group is appointed to perform an internal investigation and the information is forwarded to a family advocate. Measures taken in response to the investigation can range from supporting the institution to improve practices, to the institution being closed down and legal proceedings begun. This process was established by the *Childhood and Adolescence Code* and is regulated by the ICBF.^x

In relation to prevent children and adolescents losing parental care, Yolanda Puyana (2008), expert in family matters, states that the country lacks working methodologies with families focused on policies and programmes improving economic conditions and social interaction of household members. However, this author also states that Colombia has never implemented a national policy for families; instead, it has implemented residual programmes on specific topics involving families but which are really part of a larger set of programmes. From this perspective, the family needs to be protected as a survival group, not as separate individuals.

Colombia has, besides Act 1098 of 2006, regulations derived from administrative responses at many levels, such as the technical guidelines of the ICBF, which are descriptive documents to develop technical aspects. According to the OBSSI-BAMBINI (2010), these guidelines have been restricted to the regulation of rights reinstatement measures mainly focused on contractual, technical and operational aspects and not in reinstating/realising rights, which should be the holistic focus.

Recommendations

1. **Prevention:** Increased preventative measures are needed to reduce the number of children in need of alternative care, these include structural factors, such as reducing poverty, promoting employment options and providing family strengthening support.
2. **Definition:** It is important to clarify the legal status of 'children and adolescents deprived of parental care' and the responsibilities of the state to provide for them.
3. **Data:** There is a lack of reliable information on children and young people in need of alternative care, which prevents effective protection measures and monitoring. The state should develop a consistent, reliable and easy to access data-set to ensure that it can monitor progress and increase protection.
4. **Legislation:** As OBSSI (2010) highlighted there is little consistency between the different legislation. While the *Childhood and Adolescence Code* is in line with the Constitution and the *UN Convention on Children's Rights*, other legal provisions, such as the *Civil* and *Criminal Codes* are not. As a result they do not work well together and all legislation should be in line with the rights of the child.
5. **De-institutionalisation:** State provision continues to promote institutional over family-based care. So far there has been no evidence of a restructuring of care to ensure that children are raised in protective family environments.
6. **Monitoring:** There is a high level of institutional discretion in regards to the provision of alternative care services and each service has developed its own processes. Sometimes the ICBF guidelines are flexible enough allowing each institution to develop their own processes at its discretion. This is particularly a cause for concern in the case of reporting and response procedures to abuse cases. Stronger regulation of alternative care needs to be implemented to ensure that child abuse cases within institutions are dealt with and children are protected from harm.
7. **Workforce:** The extreme caseloads (170–250 children) of social workers and field workers demands urgent attention by the state. Furthermore, the considerable lack of resources for child protection should be addressed and interdisciplinary teams need to be established to complement services.
8. **Professionals working in child protection** need additional support with physical and mental healthcare, recognising the impact of high workloads and continuous exposure to emotionally demanding situations.
9. **Children and adolescents' voices** are not taken into account within the family welfare system; clear child participation mechanisms should be developed for all areas of children's lives, including child protection, education and within their communities.
10. **Illegal adoption** remains a critical issue. Although there are regulations to ban money transactions in adoption processes, there are still complaints that 'donations' made to adoption agencies can amount to 20–50 million pesos (up to €20,000).^{xi} Increased state regulation is needed to ensure that adoption agencies operate legally and in the best interests of the child.

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Glossary

Initial location temporary shelter is a place where children or adolescents are admitted on a short-term basis (less than eight days) while a family care alternative is sought for them.

Initial location emergency centre is a place where children and adolescents whose rights have been threatened, neglected or violated are admitted; immediate institutional protection is guaranteed while a more convenient care measure is analysed to relocate them. (Eight working days)

Support and family strengthening day care: For children and adolescents from seven to 18 years old whose rights have been threatened, neglected or violated due to inadequate parenting practices. The main objective is to realise children's rights without separating them from their families to foster comprehensive development and avoid vulnerability. (Care is given four hours per day, 21 working days per month, for six months.)

Support and family strengthening day care for children with disabilities: For children and adolescents from 0 to 18 years old with severe mental disabilities whose rights have been threatened, neglected or violated and who required institutional assistance and specialised support. (Care given four hours per day, 21 working days per month, for one year.)

Support and family strengthening semi-residential care: For children and adolescents from seven to 18 years old whose rights have been threatened, neglected or violated and who require institutional assistance and specialised support. The main objective is not to separate them from their family and to strengthen their family relationships and support networks. (Care given eight hours per day, 21 working days per month, for six months.)

Support and family strengthening care alternatives semi residential care for children with disabilities: For children and adolescents older than 18 years old with severe mental disabilities whose rights have been threatened, neglected or violated and who required institutional assistance and specialised support. The main objective is not to separate them from their family and to strengthen their family relationships and support networks. (Care is given eight hours per day, 21 working days per month. For One year.)

Support and family strengthening care alternatives admission and development: For children and adolescents from seven to 18 years old who have been victims of commercial sexual exploitation or living in the streets. To reinstate basic rights in a loving and safe environment promoting the development of tools for personal growth, to rebuild protection networks, access to services and opportunities and to establish an alternative life project is aimed in these facilities. Psychosocial support for children and adolescents is also aimed for. Skills training as well as training for achieving their fullest potential for personal development are carried out. Social support networks are built to promote the realisation of rights. For six months.

Care alternatives for adoption or rights violation measures foster home: The main goal is to guarantee that their rights are reinstated and fulfilled by providing integral protection in a foster home family environment facilitating a personal, family and social development process. The facility guarantees a caring and secure environment; it provides assessment throughout the rights reinstatement process and establishes actions with the National Family Welfare System to guarantee that the rights are realised (interdisciplinary field co-workers). These are homes supported by the ICBF, which admit children and adolescents for a maximum of six months.

Foster home for children and adolescents with disabilities: For children and adolescents with disabilities whose rights have been threatened and violated and require ICBF's protection. (One year, but this is extendable.)

Specialised residential care: For children and adolescents whose rights have been neglected, threatened or violated, or who have been given adoption measures and cannot return to their families or family support networks. It is aimed to guarantee quality holistic care to promote personal, family and social development. (Six months.)

Alternatives for adoption or rights violation measures children's home: For children and adolescents from seven to 18 years old whose rights have been threatened or violated; groups of siblings or adolescents with adoption measures are prioritised. They guarantee holistic care in a family environment to promote personal and social development. There are 12 children per home. One couple acts as parental models. These homes assure a caring and protection environment. (Six months.)

Alternatives for adoption or rights violation measures diagnostic and admission: Population in this alternative care:

Children between 0 and eight years old whose rights have been threatened or violated

Children between 0 and eight years old whose rights with adoption measures.

The main objective is to re-establish and guarantee basic rights by assuring integral and quality care. (One year.)

Alternatives for adoption or rights violation measures - residential care for children with disabilities:

For children, adolescents and young people with disabilities whose rights have been threatened and violated. The main objective is to provide specialised care for people with disabilities. (One year.)

Alternatives for adoption or rights violation measures - residential care for children and adolescents with psychosocial mental disabilities: The main objective is to guarantee and reinstate the realisation of basic rights by providing specialised care for people with disabilities. (One year.)

Alternatives for adoption or rights violation measures - preparation for employment and a productive life: For adolescents ages 14 to 18 years old with adoption measures who are ordered to be located in a specialised care programme. The main objective is to guarantee that a process of competences, abilities and life skills development promoting social, labour and productive reinsertion is carried out. (Six months.)

ⁱ The original version of the tool can be found here: <http://www.sos-childrensvillages.org/What-we-do/Child-Care/Quality-in-Care/Advocating-Quality-Care/Pages/Quality-care-assessment.aspx>

ⁱⁱ Article 22, Act 1098 (2006).

ⁱⁱⁱ RELAF (Latin American Network of Family-based Care) (2010).

^{iv} Article 229, Criminal Code.

^v OBBSI (2010).

^{vi} Article 3, Decree 1137 of 1999, Implementation of the National Family Welfare System. The implementation of the National Family Welfare based on the provisions of articles 7 and 43 of Act 489 of 1998 and compliant with other legal dispositions on the subject, is composed by the following agents:

1. The Ministry of Health, acting as tutelary body of the Colombian Institute of Family Welfare (ICBF).
2. The Colombian Institute of Family Welfare acting as coordinator and integrator of the family welfare service.
3. The departments.
4. The districts and city councils.
5. The organised communities and individuals.
6. Other entities or institutions, public or private, contribute or should contribute, according to its constitution objective or by means of a law or regulation, to guarantee directly or indirectly, to providing the family welfare service.

^{vii} UNCRC, concluding observations, CRC/C/COL/CO/3, June 2006.

^{viii} Type of contract where there is no work relationship between the employer and the employee; instead, there is a payment agreement to provide a service during a specific period. Hence, the person or entity hiring the service is not responsible for social security, the settlement pay and employment entitlements.

^{ix} OBBSI (2010).

^x See: http://www.icbf.gov.co/ley_infancia/codigo_infancia.html.

^{xi} Á. Robledo. *Adopciones en Colombia, ¿Castigo a la pobreza?* Diario La patria. Manizales. Date of Publication: May 29, 2012.