

A SNAPSHOT OF ALTERNATIVE CARE ARRANGEMENTS IN CHILE



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



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Background

In 2011, SOS Children's Villages International, along with child rights experts Nigel Cantwell and Prof. June Thoburn, developed an assessment tool¹ 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. Please contact Emmanuel.sherwin@sos-kd.org for further assistance and questions.

The target groups of this study are:

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 and behavioural issues.

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.

¹ The original version of the tool can be found here: www.sos-childrensvillages.org/What-we-do/Child-Care/Quality-in-Care/Advocating-Quality-Care/Pages/Quality-care-assessment.aspx.



Executive summary

Chile signed the *UN Convention on the Rights of the Child* in 1990, but it still does not have a unified, systematic and comprehensive law for the protection of children's rights, or effective mechanisms for promoting and protecting these rights.

Through its Constitution and some specific legislation, the state guarantees the rights to health care, education, working conditions and protection from violence, although it has not gone so far as prohibiting the physical punishment of children.² Children without parental care or at risk of losing it are covered by the Law of Minors 16.618, which enables a Family Tribunal to protect children whose rights are threatened or infringed, either by enrolling them or their carers into support programmes and providing preventative services, or by arranging for alternative care outside the family home.

Without a governing authority to coordinate and supervise services aimed at children, however, policies are often fragmented, uncoordinated and result in gaps and inconsistencies. The National Service of Minors (SENAME) is responsible for coordinating and supervising support programmes and alternative care, including residential centres, and foster families. But, due to a gap in the legislation, SENAME only monitors facilities that receive state funding, meaning that the standard of care in many private institutions and public facilities under other government ministries are not monitored at all.

The research by SOS Children's Villages and the Centre for Monitoring of the Catholic University of Chile used socio-economic data to estimate that 8.7% of the child population are in a situation of vulnerability, with a higher risk of losing parental care, and may need support services.³ However, estimates are approximate as there is a chronic lack of reliable data on the number of children without parental care and the factors that lead to their vulnerability. The research also revealed that the system is overloaded, resulting in delays that put children at risk and further increase the burden on services; that there are insufficient resources which compromises the quality of care; that there is a scarcity of foster carers due to inadequate support and lack of recruitment; and that the authorities fail to ensure adequate basic standards of care in alternative care provision that does not receive state funding.

² AUGE Health Care Reform Law 19.966 2004; Education General Law of Education 20.370 and Law 20.529 and 20.536; the Work Code that establishes 15 as a minimum age for work and provides guidelines for working conditions for adolescents; criminal laws that protect children from violence, in particular Law 20.006 2005 that legislates against domestic violence.

³ Based on a 'latent class analysis' of the data contained in the 2009 CASEN Survey: Chilean Ministry for Planning, *CASEN Survey (Encuesta de la Caracterización Socioeconómica Nacional)*, Santiago: Chilean Ministry for Planning, 2009.

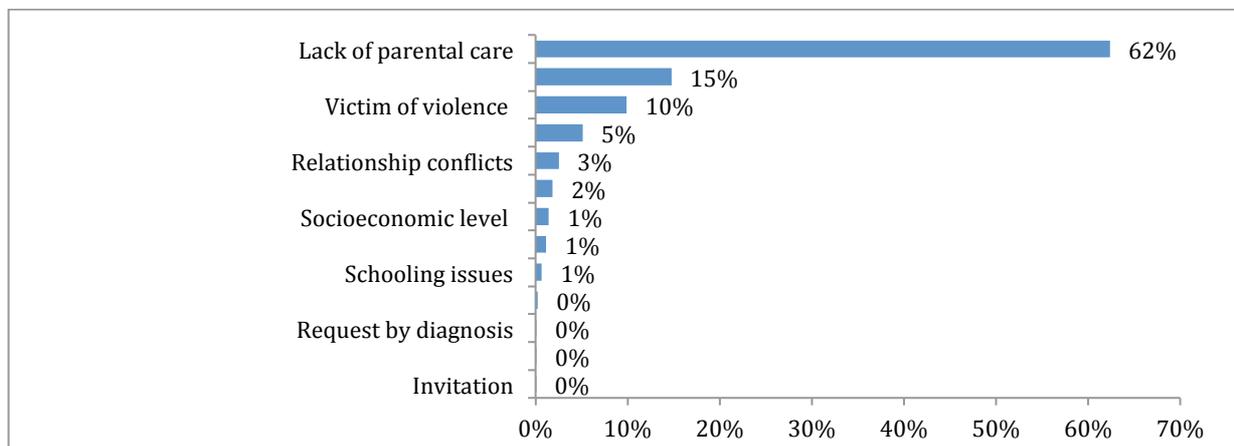
Key findings

Lack of reliable data

The scarcity of reliable data means that it is difficult to estimate the number of children that entered alternative care or confidently report their reasons for accessing support services. Official statistics in 2012 record that there were 19,798 interventions in residential and foster care, and a total 143,126 preventive or diagnostic interventions related to children's rights and welfare.⁴ However, this does not necessarily correspond to the number of children that were assisted, as in many cases the same children may have undergone multiple interventions. As another study explained, in 2012 there were a total of 14,742 residential and foster care placements at any one time.⁵ There are similarly vague records of the reasons children enter the system, with 62% of children entering due to a "lack of parental care", although there is no further data on what caused this and for 15% of children there is no data at all.

Much of the uncertainty is due to the absence of a global registry system with which to collate all the information collected by institutions when they take children into care. Although SENAME collects data on children to whom it dispenses subsidies, it does not collect information from organisations that do not receive state funding. The absence of even this basic information demonstrates that the authorities are largely unaware of the needs of children or the risks they face and are thus unable to ensure that their rights are fulfilled or adequately protected.

Reason for entry (%) of children into the residential alternative system (residential facilities or foster family) 2012 (N=19,798)⁶



⁴ SENAME, *Annual Statistical Bulletin of the Children and Adolescents in the Care of the SENAME Network*, Santiago: SENAME, 2012.

⁵ Vivanco, F., *Foster Families: A Preventative Option to Institutionalisation, which Respects the Right to Life in a Family and Community*, Señales, SENAME, Edition 5, No 10, December 2012.

⁶ SENAME, 2012.

System overload and delayed responses

In cases where children's rights have been violated, they may be referred to either the Family Tribunal or the local child welfare services. The Tribunal should deal with only the most serious cases; however, currently 70% of cases are referred directly to the Tribunal, as there are too few intermediate institutions that are known to people to deal with appropriate referrals. Furthermore, cases that are referred directly to the Tribunal usually have not been previously investigated, so the Tribunal takes on the role of investigating the risks faced by the child before a decision can be made. It also has the responsibility of reviewing each of its decisions every six months. This inefficiency has created a bottleneck and delays the referral of children to specialised interventions and alternative care. These delays can be months long and in some cases up to a year.

The child welfare services,⁷ are also overloaded with cases, many of which increase in complexity due to the delays imposed by the Tribunal, as vulnerable children are left without adequate support. While waiting for a decision from the Tribunal, the child welfare services must carry out interventions and provide services for children, further adding to their workload. As a result, the offices of protection of rights cannot fulfil their important roles of promoting the rights of children, because they focus on attending cases and compensating for the lack of available placements in specialised programmes and dealing with cases that are more complex than they are designed to handle.

Lack of coordination and resources

SENAME, education, health and mental health services do not work together in a coordinated fashion, and there is no unified, systematic and comprehensive authority to govern children's rights protection. This brings about problems in the interpretation of laws and regulation, and generates practical problems in the application of legislation. There is inadequate consultation between different ministries for initiatives aimed at children, resulting in some authorities undermining the activities of others and a general approach to responding to problems rather than working together and focusing on holistic prevention strategies.

Child welfare services are overworked and have long waiting lists, with many lacking the capacity to meet demand. Furthermore, institutions are under-resourced. The amount provided to institutions depends upon the complexity of their cases: for residential centres it varies between CHP 113,985 and 201,150 (approximately US\$215 to US\$380) and for foster programmes between CHP 87,165 and 120,690 (approximately US\$165 to US\$230) per child per month.⁸ However, the amount received is usually the minimum stipulated by the law.

Although institutions receive a monthly allowance for each child in alternative care that is above the poverty line and should be adequate to fulfil basic needs, it does not leave much in the budget for the professional attention that is likely to be necessary for vulnerable children. The only option to cover these expenses is to seek funds elsewhere, by applying to national and international funds or creating alliances with other institutions.

⁷ The Offices for the Protection of Rights (essentially the local child welfare services, which is under the jurisdiction of the SENAME).

⁸ Chilean Law 20.032, 2005.

Financing of the residential system by SENAME (residential centres and foster families) compared with poverty line, 2013 (CHP per person per month)⁹



As a result services do not have the necessary financial resources to provide attention for complex cases and the lack of professionals in the public health system leads to further delays in treatment. Poor funding means that services find it difficult to maintain professional teams with the adequate experience and qualifications. The low wages on offer mean that professionals have limited experience and are trained on the job by their colleagues, or their employment terms is short.

Foster care

Foster care programmes have two main functions: caring for children on a temporary basis and evaluating and guiding them towards family reintegration, or preparing them for a long-term placement or independent life. However, there are not enough foster carers for the number of children in need. The government has not placed enough emphasis on recruiting new foster carers and so over the years the pool of foster families has aged and declined – as the foster families become too old or unwilling to foster any more children there are few younger families to take on the role. As a result, the majority of foster carers (80%) are from within children’s own extended families.

Foster care programmes report enormous difficulties accessing basic services for children, such as health and education, let alone more complex specialist care and support. For example, there may be no available school placements near the family or schools may be reluctant to admit children with complex problems or bad behaviour. Furthermore, the provision of psychological treatment and care may be inconsistent or inadequate or in some cases not even offered to children in need.

⁹ Ibid.

Despite this obvious gap in provision, the government has not provided resources for increasing recruitment and training of foster carers. This poses considerable problems for children in need of family-based care, without the support of their extended family. Furthermore, where children are looked after informally by their extended families in kinship care, standards and supervision tend to be lower. Informal care is not held to the same standards as professional foster care, and conditions cannot be controlled in the same way, placing some children at risk of further exploitation or abuse.

Standards and supervision

Following the enactment of the Law of Subsidies 20.032 in 2005, the change in policy meant that there was an increase in transparency in the transfer of funds to private institutions. An open bidding process was established to encourage programmes to specialise their services and increase competition between them. In order to maintain standards, a registry of accredited service providers was created, which enables certified services to participate in the bids for government contracts and funding.

It is the responsibility of SENAME to provide technical and financial supervision to the accredited institutions. SENAME also sets norms and regulations for alternative care, and as a result institutions have to fulfil certain conditions and reach standards in order to be certified and receive government funding. A major failing in the system, however, is that with this change in legislation, SENAME was stripped of its jurisdiction to 'coordinate and supervise private or public agencies that contribute to SENAME's work'.¹⁰ This means that SENAME does not have the authority to get involved, regulate or supervise facilities that do not receive government subsidies or other government facilities that might deal with children without parental care, such as rehabilitation or psychiatric services, effectively undermining Chile's commitment to protect children's rights.

¹⁰ Original text from the Chilean Law DL 2465, 1979, which was later modified by Chilean Law 20.032, 2005.

Recommendations

Recommendations on the Chilean alternative care system are yet to be developed and will be published separately by SOS Children's Villages Chile at a later date.

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Glossary

Foster families	A family-based model of alternative care provided in an alternative family environment where they can stay until conditions have been re-established allowing the child or young person to return his or her stable family. Extended families who provide care for a child separated from his or her immediate family are also considered foster families.
Residential facilities	Facilities for the alternative care of children and young people deprived or separated from their families.
Office for the Protection of Rights	Local child welfare offices that provide services for a comprehensive protection of child rights, and contribute to the general conditions that foster a culture in which child rights are recognised.

Source: Chilean Law 20.302, 2005.

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