Children and adolescents without parental care in Latin America

Contexts, causes and consequences of being deprived of the right to family and community life

SOS CHILDREN'S VILLAGES INTERNATIONAL

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Red Latinoamericana de
Acogimiento Familiar

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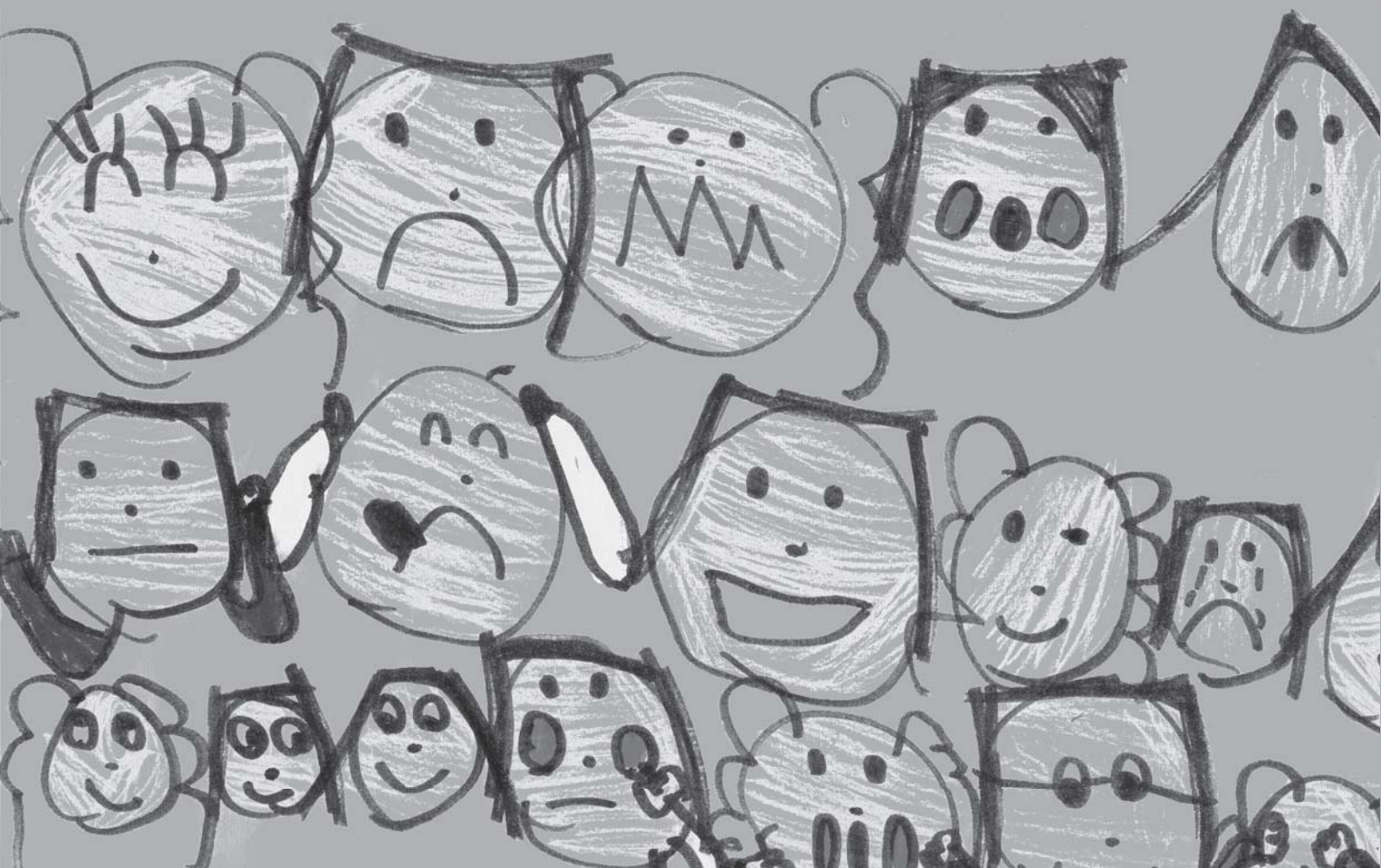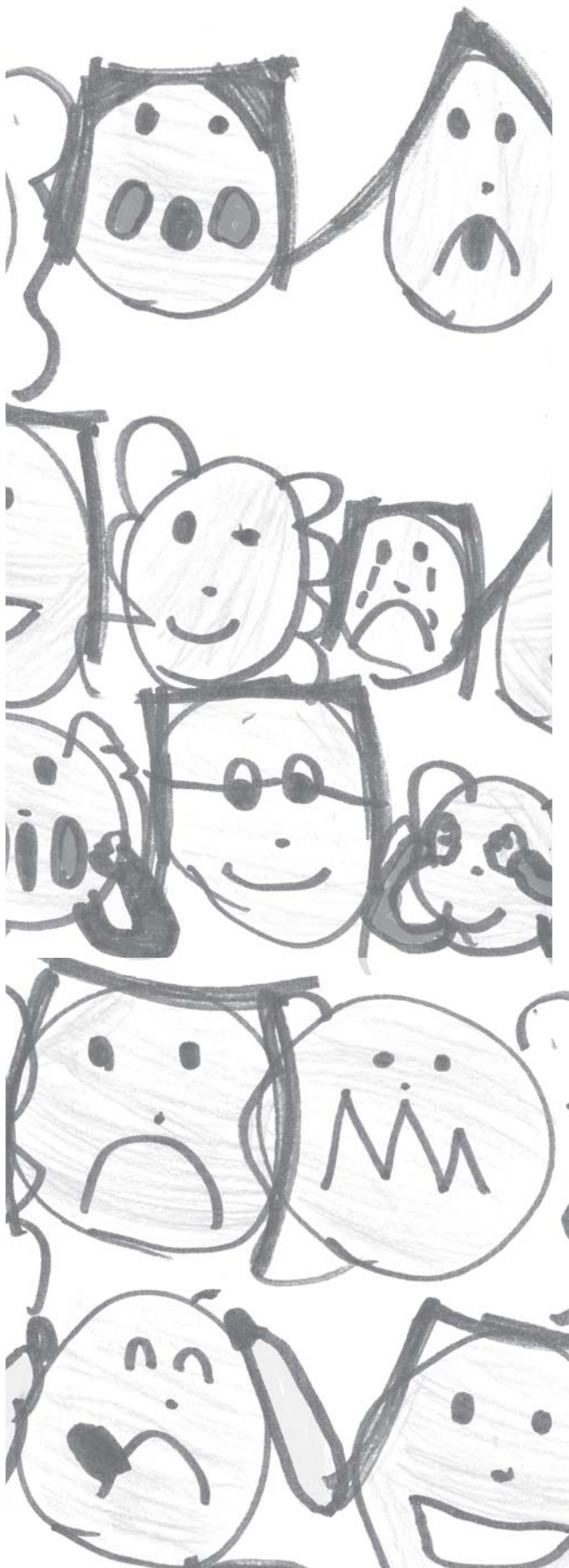
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Presentation

"...we must keep striving to respond to a constantly changing society and to accept new challenges for the wellbeing of children".

- Hermann Gmeiner -

Children and adolescents who for various reasons live without or are at risk of losing parental care are those who are most exposed to poverty, discrimination and exclusion, factors which, in turn, can make them more vulnerable to abuse, exploitation and abandonment.

This paper aims to expose the reality of the lives of thousands of children and adolescents in Latin America and to increase awareness among diverse organisations, institutions, governments and civil society.

We hope that this information will be used as a tool for debating and bringing the issue to the fore, as well as promoting the creation of good practices and public policies that will improve development opportunities and the wellbeing of children and adolescents without parental care and/or those who are at risk of losing it.

This paper can be used as a tool for advocacy, to promote and defend the rights of children. Understanding their situation will give rise to increasing commitment to finding more opportunities, improving practices and related legislation and seeking further funding and tools for their proper implementation.

SOS Children's Villages is currently concentrating their efforts on the strategic aim of reaching the objective of one million children growing up in families that care for them. This means focusing our resources and developing programmes in places where they are needed most and the areas where the impact will be greatest. Research and analysis of the shape of childhood in Latin America can be used as a tool for decision-making and a commitment to defining areas for action.

This paper reinforces the principle of cooperation and our conviction that we cannot work alone; we need to work in partnership with governments, diverse organisations and civil society, stakeholders and communities, in order to have a greater impact. Both SOS Children's Villages and Relaf share the same vision of children's right to family life and the promotion of solutions that respect this right.

SOS Children's Villages is committed to doing further in-depth research and analysis and we hope that, in the future, governments and other organisations will join us in our efforts so that this report might be constantly strengthened and enriched.

Yours,
Heinrich Muller, Deputy Secretary General for Latin America and the Caribbean
SOS Children's Villages International

Introduction

Thousands of children in Latin America live without parental care, which can signify the absence of a basic condition for child development: belonging to a group that recognises them as individuals, cares for them, respects their rights and satisfies their needs.

This paper is based on *The Latin American Report. The situation of children in Latin America without parental care or at risk of losing it*[1]. Contexts, causes and responses, which was prepared using reports from 13 countries in the region. These reports were compiled by SOS Children's Villages in the countries where the organisation has offices in order to establish the circumstances of children without parental care or in vulnerable situations. This is their main sphere of action.

SOS Children's Villages Latin America and Relaf - the Latin American Foster Care Network - agreed to compile this report using information provided by researchers in the various countries as a source, creating an overview of the situation throughout the region. These two organisations worked together to define the objectives of the report and the variables to be taken into account.

Once the aims were defined, Relaf set up an interdisciplinary team to carry out a critical analysis of the national reports. The team comprised an anthropologist, a sociologist, a social worker and a social communicator. All the team members, including the coordinator, have proven experience in research and child rights. An advanced student of anthropology was also present in the role of assistant.

The collated information was accompanied by a detailed bibliography, as well as an account of the progress being made in the field of public policies for vulnerable children and families. (For those who wish to read more, we recommend *The Latin American Report: the situation of children in Latin America without parental care or at risk of losing it*. This is the full report and contains two annexes of interest: "An annotated bibliography" and "Commitments at international events").

Those responsible for preparing the national reports are highly experienced in research and their methodology was varied: gathering statistical information from the sources available in their countries; focus groups with "key players"; interviews with decision-makers, children, families, etc. The results of their work are highly relevant given the lack of systematised information in this area.

The countries in which information was gathered were Brazil, Chile, Colombia, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Paraguay, the Dominican Republic and Venezuela.

After the completion of a draft version of the Latin American paper, international experts analysed the reports and made suggestions for improvements. Their generous and committed work enabled us to make some alterations. As such, the paper benefited from the support of: Rosa Maria Ortiz, member of the UN Committee on the Rights of the Child; Erica Brazil, a researcher from the University of Nottingham, England; Christina Baglietto and Cecile Maurin, from the International Social Service Reference Centre; Maria Eugenia Villarreal, from ECPAT - End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes - Latin America; and advocacy specialists from SOS Children's Villages.

It should be noted that for many of the variables that we aimed to analyse there was no data available in much of the region, either official or from academic bodies or organisations dedicated to protecting child rights. As such, the reader will find that both in this paper and the Latin American report key information is missing for some of the 13 countries studied. Nevertheless, with the situation of Latin American children as a backdrop, this paper is a huge step forward, giving us an overview of the state of one of the most fundamental rights - the right to parental care, a keystone for the right to live in a family and a community.

We hope that this paper will be a valuable source of information for those working in alternative care and key players in other sectors who work to raise visibility and awareness and to implement suitable solutions

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1. The full report can be found at www.relaf.org

to this issue: the media and society as a whole.

We also hope that despite its limitations, this paper will contribute to increased knowledge, reflection and implementation of the best options for childcare, so that our children can enjoy the right to live in a family and a community.

Buenos Aires, April 2010
Matilde Luna

1. Why are there children without parental care in Latin America?

The reasons why children find themselves without parental care are complex and varied, as are the impacts of this on children's lives[2].

In order to identify the reasons why children lose parental care, it is necessary to look to the main political, economic, social and cultural problems faced by the countries of the region. The causes can be grouped together under the following headings: **political**, such as war and forced migration as a result of war; **economic**, leading to a different kind of migration and other types of family vulnerability, like lack of access to health services, education and housing, and child and adult malnutrition. These are directly linked to **social and cultural problems** such as domestic violence, addiction, child labour and commercial sexual exploitation, as well as discrimination due to handicap or ethnic background.

Children who currently lack parental care have always fallen into one of these risk groups. The information organised and summarised here shows that there are many identifiable reasons for children being without parental care, therefore children at risk of losing parental care can be easily identified.

The context of these causes will be identified first, after which they will be listed and described.

2. The term "children" refers to boys, girls and adolescents under the age of 18

1.Connection between poverty and lack of care

The Latin American continent is characterised by **great social and economic inequality**, both between and within its different countries, which has increased over recent decades. Another feature of the region is the large percentage of the population living below the **poverty** line, affecting, on average, more than 30% of the population (see the map at the end of section 1).

Poverty and inequality are considered to be the main causes of children losing or being at risk of losing parental care. However, it should be appreciated that although poverty has been identified as a major cause of this issue, there is no linear relationship between poor children and those without parental care.

The link between poverty and lack of parental care is much more complex. It is not only poor children who suffer from lack of parental care or risk losing it. Problems such as HIV, addiction and domestic violence are not exclusive to poor families, although they are often more visible in this sector of society because family members are more likely to seek help from the state in overcoming their problems. People with higher incomes tend to use private healthcare and education services and therefore do not show up in state-produced statistics. However, it should be noted that poor people in Latin America face further problems because of limited access to public services, which should be guaranteed by the state to the entire population, such as education, healthcare, housing and employment.

The issues linked to the risk of losing parental care are the same as those actually causing loss of care, for which reason we highlight the need for in-depth study from the perspective of prevention, protection and family strengthening, which allow situations that may lead a child to lose parental care to be avoided.

2. Identification of causes and conditions faced by children without parental care

→ *Demographic concentration in suburban areas*

> » In the major cities of Latin America, many names are given to the unchecked sprawl of neighbourhoods that spring up without urban planning: "villa miseria", "barrios", "favelas", "pueblos jóvenes", "asentamientos urbanos", to name a few.

Analysis of the region shows that rural areas suffer higher levels of extreme poverty. This leads to internal migration from rural areas to cities, where large numbers of migrant families settle in "rings" around the capital or major cities. This migration from countryside to city usually comes about as families, adults and children, look for a better standard of life. The suburbs provide greater access to some form of housing, schools, health centres and, arguably more importantly, greater opportunities for finding temporary informal employment or other means of survival.

This phenomenon brings with it other related problems, such as overcrowding, new diseases and addictions, or, depending on the country, conflicts with the police or army, because of the migrants' "illegal" or land grabber" status, etc.

Children often become separated from their families during internal migration or as a result of poor living conditions.

→ *Difficulty in accessing healthcare. The impact of HIV/AIDS*

> » **Ecuador**: between 2002 and 2008 it was estimated that the number of people living with HIV/AIDS rose to 9,270 (men: 5,972; women: 3,298), of whom 212 were girls and 258 boys, representing 2.29% and 2.78% respectively[3].
>
> » The countries in the region with the highest adult death toll as a result of HIV/AIDS are the poorest: **Haiti, Nicaragua and Guatemala.**

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3. All data used in this paper can be found in *The Latin American Report. The situation of children without parental care or at risk of losing it in Latin America. Contexts, causes and responses. The full report can be found in Spanish at* www.relaf.org

HIV/AIDS is one of the causes of loss of parental care and a characteristic of children who have already lost care because their parents are infected with the virus. This makes the cause two-dimensional: adults infected with HIV/AIDS who cannot look after their children; and infected children. This situation is worsening and it is difficult to raise awareness in the region.

HIV/AIDS is one of the main causes of orphanhood in the region, although it can be controlled if there is access to healthcare and the necessary medicine is guaranteed

→ *Orphans*

» **Colombia**: according to report published in 2005, there are some 835,410 orphans in Colombia. Given the difficulty of gathering information on this subject, the number is probably greater.

» **Honduras**: 190,982 orphans nationwide of whom 9,489 (5%) have lost both parents; 51,357 (26.9%) have lost their mother and 130,136 (68.1%) have lost their father. 52.8% live in rural areas and the remaining 47.2% in urban zones.

» **Mexico**: it is thought that there are around 1,600,000 orphans, at least 40,000 of these due to HIV/AIDS.

» **Venezuela**: 480,000 orphans.

» **The Dominican Republic**: : the number of orphans has risen to 120,500.

Orphanhood is a major cause of loss of parental care. A large number of children living in institutions are orphans who have no hope of regaining their right to life in a family after losing their own. However, in many cases in which children lose their parents, relatives and communities take them in so that they remain within the group to which they are connected.

Orphanhood is often linked to other problems, such as malnutrition and under-nourishment, disease and difficulty in accessing healthcare, natural disasters, low intensity armed conflict, such as guerrilla warfare and disputes arising because of the drugs trade, which threaten the lives of the public.

In most Latin American countries, children are orphaned mostly because of HIV/AIDS and social violence, caused both by antisocial groups and the security forces.

→ *Single-parent families*

» In **Haiti**, experts have identified single-parent families as being the main factor putting children at risk of losing parental care. 32% (1,499,308) of children are at risk of losing parental care entirely, and the majority live in a family headed by just one parent.

» In **Paraguay**, 25% of the total number of children at risk of losing parental care live with their mother and 11% with their father.

There is a strong link between this reality and health problems, armed conflict and/or social violence, which put the lives of adults at risk, as well as family breakdown caused by fathers abandoning the marital home. It seems that relationship breakdowns are linked to clashes caused by the stress of earning a low wage and issues related to emotional development difficulties, which make it hard for adults to face conflict, understand their adolescent children and provide them with the support they need, among other factors. In addition to this, there are problems linked to gender when the cultural norm is for children to be "the responsibility of the mother", when children "should" stay with the mother. If a mother does not undertake to care for her children, she is regarded as "unnatural", unlike fathers who do not take responsibility for their offspring. Gender inequality is rife in the region, where the myth of "maternal instinct" and the acceptance of abandonment and violence by men are the norm, in the context of a culture of machismo.

Children in single-parent families, usually with the mother at the helm, are frequently more vulnerable as they stay at home alone while their mothers go out to work, usually in poorly paid jobs. All too frequently children have to look for their own sources of income, either in unstable jobs, by begging or different forms of commercial exploitation, including sexual exploitation. All of this increases the risk of children losing parental care altogether.

→ *Teenage pregnancy*

> » The report from **Chile found that** 23% of pregnant women are adolescents.
>
> » In **Nicaragua** 44.6% are adolescents and in **El Salvador,** the figure is 12.4%.

Teenage pregnancy is another reason why children in this region might lose parental care. Some of the factors linked to this issue are: teenagers as heads of household, domestic violence because of pregnancy, and adolescents leaving home because their parents disapprove of their situation.

Studies show that adolescents from poor neighbourhoods are more likely to become pregnant for several reasons: lack of information about and bad access to contraceptive methods, lack of knowledge about family planning, lack of parental control, and an inability to recognise any options other than becoming a mother. This last point is demonstrated by the number of adolescent girls who willingly become pregnant because, consciously or unconsciously, they see it as the only way to give their life meaning, an attitude stemming from the strong cultural mandate of maternity.

On the other hand, precocious sexual activity is on the rise along with teenage pregnancy linked to violence and abuse.

This issue needs to be tackled by looking at all of its diverse and complex aspects: a large number of pregnant adolescents stay at home, with or without their partner, or are taken in by their relatives (parents, grandparents, aunts, etc.), who support them and include them in the group of adults and children already in the home.

Again, the family group appears in a "protective role", able to prevent the adolescent and her child(ren) from missing out on parental care, which once more obliges us to consider the importance of supporting these "extended" families.

→ *Child labour and/or sexual and commercial exploitation*

> » In **Chile**, 238,187 children between the ages of five and 17 work. Of these, 106,676 (44.9%) work in unacceptable conditions (e.g. children under the age of eleven, children between the ages of twelve and 14 who have dropped out of school, children between twelve and 14 who work for 14 hours or more a week), and 68,000 are below the age of 15. 88,428 (37.1%) of these adolescents work in adequate conditions. 42,083 (17.6%), of whom 85 % are female, carry out domestic chores for at least 21 hours a week. These figures, although important in that they refer to the entire population of children in the country, do not include the number living on the streets or in institutions. Nor do they include the "silent workers", as we might call those children working in "the worst jobs for children" such as the sex trade and drugs trafficking.
>
> On the other hand, seasonal farm work is often carried out by minors, mainly boys, aged between five and 14 (12,678 children make up 70.5% of the total number of people involved in this type of employment).
>
> » In **Colombia,** a worrying 14,887 children work as maids, many of whom started working from as young as five years of age.
>
> » In **Mexico,** an estimated 80,000 children are victims of sexual and commercial exploitation.

A significant number of children involved in some form of child labour or exploitation have lost or are at risk of losing parental care. This issue has several aspects that must be taken into account. The poorest sectors of the population need to look for additional income and so, as members of the family, children go out to look for ways to meet basic daily needs. In some sectors child labour is accepted as part of the family economy, for example in rural areas where children work in farming activities: sowing, harvesting, selling produce and herding animals.

It is also acceptable in the region to employ minors as maids from an early age, both within the family home and elsewhere. This is seen as a cultural norm.

Child exploitation can often reveal a shocking phenomenon: often it is the parents who "hand over"

their children to situations of exploitation.

→ *Difficulties accessing education*

» **Ecuador**: only 24% of adolescents between the ages of 13 and 18 are in or have completed primary school, 25% for secondary school and 3.2% for university.

» **Nicaragua**: only 40% of adolescents aged between twelve and 17 attend school.

Difficulty in accessing formal education is a characteristic issue of children at risk of losing parental care, in addition to their parents having low levels of formal education themselves. When children need to move to a city to attend school, they often stay with relatives or family friends.

In **Paraguay** this is the main reason for children living with relatives or even strangers.

The link between education and losing parental care will be examined later in this paper, in the section on violations of rights.

→ *Drug abuse, conflict with the law, domestic violence, abuse and irresponsible fathers*

» In **Mexico,** of the four million children between the ages of six and 17 who took part in a study in 2000, 28% of those aged between six and nine said that they had suffered violence within their family.

» In **El Salvador** the different types of child abuse (physical, sexual, emotional) were identified as the second most cited reason for children having to enter institutions and accounted for 16.6% of the number of cases attended between 2004 and 2006.

Often these types of abuse are not found in isolation

These are social issues that are extremely complex and often interconnected. The results of the studies carried out in Latin American countries show the need to delve further into domestic violence, its causes and effects, and then to tackle the variables concerned with this issue. This is the reason why domestic violence, the levels of drug use, conflict with

the law, abuses and irresponsible fathers are grouped together in this paper.

The issue of irresponsible fathers must be contextualised in homes where different social conflicts are suffered: addictions to drugs or alcohol, crime, mental health problems. In some countries there is the added variable of families living with police and political violence.

It is extremely important not to "demonise" the poor of Latin America, but instead to understand which basic living conditions are not being guaranteed by their governments, which lead to extreme conditions, and to search for a preventative strategy that does not see punishment as the main and sometimes only response.

→ *Adolescence and the loss of parental care. Children as heads of households*

» In **Colombia** the national demographic survey (ENDS) shows that the number of children living with both parents falls with age, while the number living with only one parent rises as the child gets older. Likewise, the number of orphans rises with age: 0.9% of children under the age of two are orphans, whereas 8.9% of those between the ages of ten and 14 are orphans. Finally, the same survey shows that 44,595 adolescents are heads of households and 76,278 were identified as "spouses of the head of the household", of whom 3,147 were aged below 14.

Adolescents are more likely to have lost parental care.

Latin American countries frequently report children running away from home because of violence, ill- treatment and inadequate living conditions. A significant number of children, mainly between the ages of ten and 14, leave their homes and choose to live without parental care, often on the streets, and sometimes in overcrowded conditions in suburban areas. Many become parents at a young age and the vicious circle of a lack of rights is reproduced.
Teenage heads of household take on the responsibility for looking after children, whether younger siblings, their own children or other children to whom they are linked in some way.

The reasons for adolescents becoming heads of households are varied: we have already looked at one reason, teenage pregnancy, where young people are often forced to form a family and become head of the household. Sometimes adolescents become the head of the family when the parents or adults they live with abandon them, die or migrate.

→ *Natural disasters*

» **Mexico** is ranked 12th in the world for countries affected by natural disasters: almost 10,000 people died as a result of natural disasters in Mexico between 1986 and 2006.

» In **Haiti**, an estimated 200,000 people died in the capital city of Port au Prince in the earthquake on 12 January 2010

Natural disasters create catastrophic conditions for children in particular, as they are easy prey for child traffickers and they are often orphaned when their parents die or disappear. Countries such as Guatemala, Mexico, Haiti, Chile and Peru have suffered successive natural disasters over the last few years and have yet to recover. Pre-existent poverty limits the ability to have an infrastructure capable of caring for its population in an emergency situation. As proved in Haiti, international cooperation can be used by national authorities to alleviate the chaos and extreme needs suffered by the children affected.

→ *Migration*

» **Mexico** registers huge numbers of women children and adolescents migrating to the United States of America, with minors often travelling without relatives. In 2007, 35,543 children crossed the border.

» In **Colombia** it is estimated that 2,414,269 people, of whom 35.6% are under 17, have been forcibly moved from their place of origin to other areas of the country as a result of armed conflict.

» Many minors emigrate from the **Dominican Republic**, but the country also receives many migrants from neighbouring Haiti, whose population is constantly crossing the border to escape extreme poverty and frequent natural disasters.

constantly crossing the border to escape from extreme poverty and repeated natural disasters.

» **Ecuador and Honduras** report a large number of children whose parents live abroad and who live on money that they receive from them. 20% of the children in Honduras who do not live with their parents are in this situation.

Migrants tend to suffer adverse conditions in the countries to which they relocate. Discrimination is one of the most difficult factors because it hampers integration. Being undocumented renders them "illegal" and so they are usually only able to find work in unstable, low-paid jobs and have no access to public services, such as healthcare and education.

Economic concerns are another of the adverse conditions facing migrants, as demonstrated by the sending of money to family members who remain in their country of origin.

→ *Poverty and destitution*

Latin America suffers high **poverty** rates: 20.3% of the total population is poor and 12.9% is destitute [4], which affects thousands and thousands of children. This rate is higher still if "infantilisation of poverty" is considered, since the majority of those living in poverty are children.

These percentages correspond to country averages for the region, but in **Honduras, Nicaragua** and **Haiti** over 50% of the population currently live in poverty

Researchers in the 13 countries cite inequality and poverty as the main causes of children losing parental care or being at risk of losing it, although in some countries these causes are cited as the only reasons.

4. CEPAL, Social Overview of Latin America 2008

2. How many children are without parental care and where are they?

REFERENCIAS

0% a 20%

20% a 40%

40% a 60%

60% a 80%
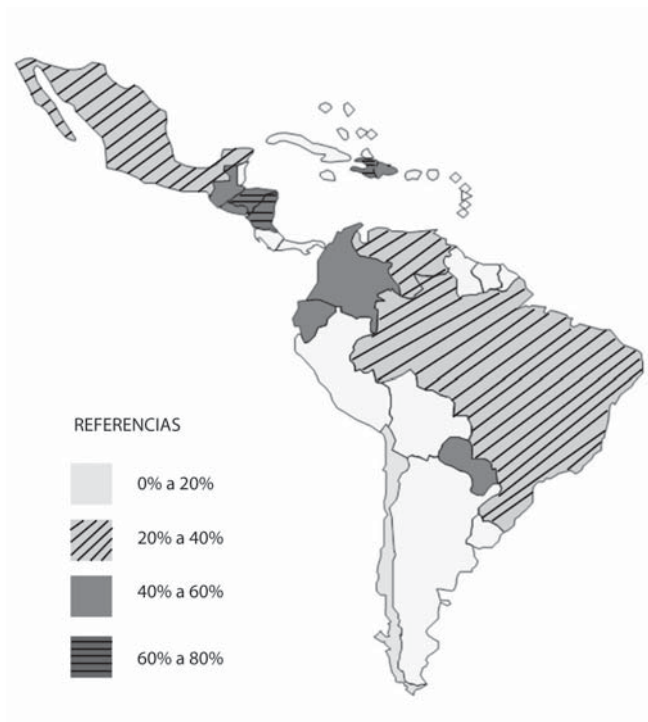
Source: Social overview of Latin America 2008, based on surveys in households in different countries (CEPAL).

Unfortunately, in Latin America there is a lack of reliable data and information relating to this subject, which, if present, would assist in the evaluation of the situation, the preparation of social policies and their monitoring and assessment. Despite this deficiency, the systematised studies available are able to reveal the "tip of the iceberg" as regards the huge number of children without parental care.

Over recent decades, most Latin American countries have lived through dictatorships, lasting for varying periods of time, and during the 1990s, neo-liberal governments implemented economic policies that exponentially increased the level of poverty and destitution, widening the gap between rich and poor, impacting directly on children.

Although the relationship between poverty and lack of parental care is not linear, it is clear that poor families are most at risk of breakdown because of their constant struggle to survive and the lack of respect for their human, social, cultural and political rights.

The issue today known as "children without parental care or at risk of losing it" covers an infinite number of situations where children completely or partially lack an adult who is their main point of reference and whom they see as their carer and support for a sustained period of time.

Just as there are many reasons why parental care is lacking those children who find themselves without parent care live in many different circumstances.

Many are separated from their parents by child welfare agencies and placed in some kind of formal alternative care. Some may be in some type of informal care situation where there is a "mutual agreement" among the adults who give the child up and those who take them in.

The aim of the formal system is to protect the child by removing them from the cause of the problem (abuse, neglect, etc.), solving the problem and returning the child to their biological family; or perhaps a more definite solution is sought, such as adoption.

However, the studies have found that children are usually separated from their families for an undefined

period of time with no clearly defined, safe and appropriate steps to be taken for the child's future.

However, as we will demonstrate later in this report, many children do not fall within either of the care categories described above: children living on the streets or children who are heads of households. Although the data does not give a true picture of the number of children without parental care, the information available does give us a general idea of numbers. Some examples can be found below.[5]

> » In **Colombia**, a third of all children live with one parent and over 1,100,000 do not live with either parent.
>
> » In **Ecuador,** it is calculated that 8.65% of the country's children (490,383) do not live with their parents.
>
> » **Mexico** has reported a total number of 412,456 children without parental care (1.09% of thetotal child population), although this figure may be higher given that the UN Committee on the Rights of the Child has commented on the Mexican government's lack of data on the number of children in this situation.
>
> » In **Nicaragua**, according to the Demographic and Health Survey (ENDESA) of a population of 1,933,118 children, 676,591 (35%) of those under the age of 15 living in urban areas do not live with a parent; 483,279 (25%) live only with their mother and 193,311 (10%) do not live with either parent.
>
> » In **Paraguay**, , the 2002 census showed that 289,000 children do not live with their parents, which is 12.12% of the child population. Another statistic from the same census reveals that 588,000 children live in a home where the head of household is neither their mother or father; 299,000 live with grandparents, which does not necessarily mean that a parent is present under the same roof, 155,000 live with a relative or non-relative, of whom 11,000 are children of maids living in the house in which their mother works - of these 11,000, 1,300 are aged six and below.
>
> » The situation is even worse in the **Dominican Republic**, a country where 580,781 children

below the age of 15 did not have parental care in 2007, which represents 18.8% of the country's child population.

The predominant characteristics of children without parental care

Statistics show that children without parental care can be found in all age groups, although the number of orphans, children in institutions or living on the streets increases with age.

In some countries children from different ethnic groups who often suffer discrimination are more likely to be found in institutions, such as Afro-Brazilians.

> » Most children without parental care in **Colombia** fall within the ten to 14 age group, representing 11.2% of the overall child population. Children aged between five and nine without parental care represent 8.2% of the c hild population, followed by those aged between two and four (5.2%) and, finally, 1.6% of children without parental care are under the age of two. With respect to their socioeconomic status, 9.8% of children at the lowest level do not live with their parents whereas the percentage of children at the highest level is 5.7%.
>
> » In **Ecuador**, 47.85% of children without parental care are aged between 13 and 18, followed by 41.79% between five and twelve and finally 10.36% aged four and below.
>
> » A study carried out in **Brazil** in 2004 showed that a high percentage of children in institutions were black male teenagers and that people wishing to adopt a child preferred white female babies..

Misuse of alternative care for children.

As previously mentioned, children can be placed in a formal alternative care situation, which may be one of many types of institutional or family-based care.

However, as demonstrated by the examples

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5. All data used in this paper can be found in *The Latin American Report. The situation of children without parental care or at risk of losing it in Latin America. Contexts, causes and responses. The full report can be found in Spanish at www.relaf.org*

given, there are times when alternative care is not implemented correctly, in other words when it is not in the best interest of the child or when more efforts could have been made to keep the child with their biological family, as outlined in the procedures detailed in the Convention on the Rights of the Child and in the recently approved the *UN Guidelines for the Alternative Care of Children.*

» According to experts in **Honduras,** the country's authorities tend to institutionalise or place children in public or private foster care programmes, separating them from their biological family without first trying to prevent this separation. Nor is there any attempt to counsel parents on how to take responsibility for bad behaviour, laziness, poverty, family problems, running away, etc., rather than blaming or victimising the child. Experts also believe that institutionalising a child is often the first resort because there is a lack of programmes dealing with prevention of risk factors, family support and temporary foster care programmes to care for children while their case is being investigated and decisions taken by a competent authority.

» In **Nicaragua**, most children who have been institutionalised do have a family and still
» have links with them, therefore their right to live in a family and a community is being abused. There are several reasons why children are institutionalised: among others, because their mothers work long hours and cannot be

at home to take care of them or have migrated in search of work or decided that their children should live in an institution to gain better access to schools. This situation clearly reveals the lack of financial resources for families to be able to take care of their children.

» Experts in **Colombia** highlight the fact that many children are institutionalised for many years before reaching the age of 18, which, in terms of psychological and social development, means that they have not been able to forge bonds and learn the necessary social skills to be able to fit back into society upon leaving the institution.

» Specialists in **Mexico** indicate that a huge number of children are institutionalised in homes, substitute homes or child protection centres for an undetermined period of time. Some of these homes and centres have not been through the proper procedures or do not adhere to the correct constitutional guarantees, which is an abuse of the children's rights. The procedures followed by the Ministry for Family, Adolescence and Childhood (MIFAN) should lead to temporary institutionalisation, but many children reach adulthood in these centres because no follow-up procedures are carried out. Prolonged stays in homes and centres for children, the majority of whom do have families, have not been studied nor have alternatives to institutionalisation been assessed.

INADEQUATE USE OF ALTERNATIVE CARE

Measures have no specific time frames due to a lack of follow-up procedures and processes to reunite children with their families.	Decisions are made without following the correct legal procedures, which violates the children's right to be heard, as well as other rights.	In practice, the different types of alternative care are not based on child rights, focusing instead on short-term care.
Institutions are often located far from the children's family and community.	The reasons for children being institutionalised are often unlawful: poverty and orphanhood are among the most common.	Measures to prevent separation have not been adopted (support for the biological family).

Number of children in institutions in Latin America by country.

MÉXICO [6]
29,310 children living in
703 institutions.

HONDURAS [6]
3,605 children in institutions.

HAITÍ [6]
187,413 children in
institutions.

GUATEMALA
5,600 children in
institutions.

THE DOMINICAN REPUBLIC [6]
3,200 children below the age of 15
are institutionalised.

EL SALVADOR [6]
10,042 children in
institutions in 2006.

NICARAGUA [6]
2,967 children institutiona-
lised in 88 centres.

COLOMBIA [6]
Of the 38,000 children over the age of 7 in
the care of protection agencies, 25,000 are
institutionalised.

VENEZUELA [6]
Official figures report 1,544 children
living in institutions in 2007 (private
institutions report a higher figure).

ECUADOR
According to official figures for May 2010
there are 3,000 children in non-governmen-
tal institutions and 300 in state institutions.

PERU
3982 children in institutions
according to a CRC report
(Initiative for children) pre-
sented to the CRC in 2005

BOLIVIA
10,210 children in
institutions,
according to UNICEF
in February 2010.

BRAZIL [6]
50,576 children in
institutions.

PARAGUAY [6]
5.000 niños en instituciones.

URUGUAY
3,273 children institutionalised in 2010
– 1,189 in state institutions and 2,084 in
non-governmental institutions.

CHILE
According to official data there were
12,229 children in institutions in the first
quarter of 2010 to "protect their rights".

ARGENTINA
The UNICEF study "Deprived of Freedom" done in
2005 found a total of 17,063 children had been taken
into care and placed in 642 state and non-govern-
mental institutions.

TOTAL: the total number of children institutionalised in all of the countries cited above reaches 374,308. This is not an exact number but is a decent approximation (due to children not being registered and other reasons).

6. Data taken from SOS Children's Villages National Reports

Institutionalised children

> » UNICEF estimates that eight million children around the world are institutionalised (Pinheiro, P. S., *World Report on Violence against Children*, New York, UNICEF, 2006).

Thousands of children in Latin America are included in this total. The issue of institutionalisation is particularly relevant since it is the main response of the state and civil society organisations in relation to children that need to be taken away from their families.

These institutions come in many forms: from those that attempt to recreate a family home, with only a small number of children in each, to the "macro institutions" which house hundreds. Arguably the worst of all are the "foundling homes" for babies, still found in the region in spite of evidence of the irreversible damage wrought on the mental and physical development of children deprived of maternal care during early childhood.

Although many countries have started to deinstitutionalise children and make improvements to these institutions, hundreds still remain.

Research shows that many children in institutions have a father and/or mother lacking sufficient resources to take care of their children. Society also plays an important part in the lack of responsibility taken for these children: a shortage of supportive public policies and social indifference "normalise" the act of separating children from their parents and placing them unnecessarily in institutions.

Children who are placed in institutions in Latin American countries share some common characteristics.

Most are adolescents from urban areas whose families are classified as poor. There is a generally a similar ratio of girls to boys, although in some cases there are more girls living in care.

> » In **Haiti**, 1187,413 children, 4% of the total child population, are in institutions, (69%) of them male and 31% female.[7]

7. The data from Haiti, taken from The Latin American Report. The situation of children in without parental care or at risk of losing it. Contexts, causes and responses, is from 2009, prior to the earthquake in January 2010.

> » 72% of children institutionalised in **Mexico** live in non-governmental institutions that have cooperation agreements with national and municipal authorities in charge of child welfare. Of the total number of children in care, 58% are female and 42% male, 23% are aged six and below, and 77% are between seven and 17. Only 1.1% of institutionalised children have some kind of disability.

> » According to the principles of the Children's Code in **Nicaragua**, only 41% of the children in institutions should have been taken into care. These children, who have been institutionalised despite having family ties, are having their right to live in a family and community abused. However, the reality is that the families often lack the necessary resources to take responsibility for looking after their children and the state's only response is to take the children into care.

> » A UNICEF study carried out in **Paraguay** in 2006 shows that the main reasons for children entering institutions are abandonment by their parents (15%), because they are orphaned (10%), extreme poverty (10%), homelessness (6%) and domestic abuse (7%). A qualitative study, carried out in 2009 by the Ministry for Children and the NGO "Corazones por la infancia", was based on a sample of 807 children in 16 institutions and found that 18% were under the age of seven. Of these, 23% did not have a birth certificate and only 13% knew their biological families. 24% had been assessed as eligible for adoption and, for 58%, it was assessed that work should be initiated to re-establish ties with the biological family.

→ *Towards deinstitutionalisation*

It should be mentioned that, despite much still to be done, several countries in Latin America have started taking steps towards reversing the massive and often unnecessary measure of taking of children into care. Some are already showing concrete results, examples of which can be seen below:

> » **Chile** is implementing policies that promote deinstitutionalisation and aim to stop the separation of children from their families. In 1990, 62% of children dealt with by the National

Children's Service were in institutions, whereas by 2005 the number had fallen to 26.3%.

» **Brazil** instituted a "National Plan for the right to live in a family and community", and provides guidelines for public policies supporting biological families.

» **Paraguay** has closed its state homes for babies and opted for family-based care and the speeding up of adoption procedures, as well as re-establishing children under the age of three with their biological families

» **Uruguay and Brazil** have modified their adoption laws. These changes make it compulsory to work with biological families and, when adoption is the best option, this process has been made easier. This prevents long stays in institutions without any in-depth investigation into the child's circumstances. Brazil has also set up a registration system for children in institutions who are suitable for adoption and for people seeking to adopt.

Foster care programmes

Foster care programmes created by public organisations or civil society organisations work to ensure that children who are removed or separated from their families are able to be taken in by another family for as long as is necessary.

Foster care care is a kind of formal foster care, into which children are placed by a court or similar administrative body. In Latin America, informal foster care is often the norm, where a member of the extended family or member of the community takes in the child without any intervention from the state.

Even though there are generally very few foster care programmes, it is increasingly seen as a solution for children who need to be separated from their biological family for a certain period of time. These programmes are developing at a slower rate than institutionalisation programmes, and children are still being placed in institutions. However, in qualitative terms, the future of foster care is promising. Foster care programmes that have already been implemented often take a rights-based approach.

This model does not exclude the biological family, but works with it to foster ties to help the child overcome problems and maintain his/her cultural identity and history, always taking into account the child's wishes. These new programmes go beyond the concept of "substitute families", which were developed in some countries, and in which the biological family was ignored and the children stayed for years with the substitute family.

In this context, we have attempted to get an idea of the number of children in Foster care in the region and mention some of the programmes currently operating:

» **Colombia**: according to the *Report on child rights in Colombia* 2008, of the 38,000 children above the age of seven under state protection, 14,000 remain within their community, with their biological families or community members.

» **Honduras**: there is a state-backed foster care programme which is supported by the Honduran Institute of Children and Families (IHNFA) and is called the "Solidarity for Families Sub Programme". It operates in six cities, although its influence is still low.

» **The Dominican Republic**: in 2007, a total of 457,081 (14.8%) children below the age of 15 were reported as being cared for by adults other than their parents. These children fall within the category of "informal fostercare" or "formal foster care".

» In **Chile** during the first quarter of 2010, the National Service for Minors (SENAME) foster care programme, implemented by NGOs, registered 3,194 children in foster care and 12,229 in institutions. In 2006 4,450 were in family-based care and 10,610 in institutions.

» **Venezuela**: the Autonomous Institute of the National Board for Child Rights (IDENA) reported that, since implementing the Substitute Family programme, it has secured the right to live in a family for 323 children without parental care. It states that the "substitute family" should work together with those in charge of the programme to strengthen the child's ties with his/her relatives. It used to be the case that foster

care meant that many children stayed for an indefinite period with a substitute family, with no support programme to assist the biological family, which renders the concept, nature and reach of this measure meaningless, as well as making it easier for adoptions to be carried out without following the correct procedures.

» **Uruguay**: 1,331 children are in foster care programmes under the Alternative Family Unit. There are 1,189 children in governmental and 2,084 in non-governmental institutions and residential care settings The foster care programme is attempting to take a more rights-based approach in the changes it is making to the old substitute family programme.

» **Peru:** the foster care programme run as a joint venture by the government (INABIF) and an NGO (Buckner Peru) has moved 16 children who previously lived in institutions and had no contact with their biological families to family-based care. The team has enabled nine children to be reunited with their biological families. Over two years the team held 25 meetings in the community and appeared 24 times in the media to promote the programme and search for new families.

» **Mexico**: SOS Children's Villages are home for 659 children; 21% are aged six and below and 79% between seven and 17.

» **Guatemala**: 143 children in San Cristobal, Retalhuleu, Quetzaltenango, Jocotan, Chiquimula and San Jeronimo B.V.

» **Colombia**: SOS Children's Villages works in Bogotá, Floridablanca, Ibagué, Rionegro and Cali and provides a home for 608 children. Most are adolescents (54%), with 36% between six and 12, 5% aged six and below, and 5% are young people. 81% came from urban zones and the remaining 19% from rural areas. Of the 608 children, 23 are Afro-Colombian and eight indigenous. 55% have between two and four siblings, 16% belong to large families with more than five children, and 15% have just one sibling. 18% of the children are eligible for adoption.

» **Honduras**: 781 children between the ages of two and 18 live in SOS Children's Villages. Most (46.27%) are between eight and 13 years of age, 41,04% are adolescents between 14 and 17, followed by young people between the ages of 18 and 22 (12.69%).

» **Venezuela**: 370 children are in alternative care programmes and 3,894 in family strengthening programmes.

→ *Children in SOS Villages*

The SOS Children's Villages model recreates the family setting in small homes. SOS Mothers are professionally trained. SOS Children's Villages' presence in all Latin American countries is significant, in particular in five of these nations. Examples taken from the SOS Children's Villages database show the profile of these children, how widespread the Villages are in these countries and, in the case of Venezuela, those families that benefit from the organisation's family strengthening programmes.

SOS Children's Villages fulfils an important role during emergency situations and its work with Haitian children during and after the earthquake in January 2010 is particularly noteworthy.
The organisation has existed since the Second World War and, like other organisations, is constantly updating its practices. Its methods for working with biological families and communities are particularly innovative.

"Informal" foster care

When the answer lies within the community. Protective factors

Culture is one factor that can reduce the risk of children being abandoned. Parental abandonment of children is almost unheard of in some cultures, usually where children are not directly cared for by the parents but by the extended family. This is often the case in Afro-Caribbean or indigenous communities.
Although being orphaned or having parents incapable of caring for a child are usually the reasons for children losing parental care, there are others. Often children are placed with other families, either their extended family or another in the community, where the child can form new ties and avoid entering the country's protection system.
Protective factors include resources provided by the

community itself to cushion children from the risks they face, which often consist of actions that protect and care for children through extended family or community networks.

This response is a viable alternative to institutionalisation in cases where parental care is unavailable, as long as there are public policies in place that strengthen these ties. This may be the best alternative when a child's right to family life is being violated, as it enables children to live in their community and become the community's responsibility.

Children without the option of family-based or alternative care

Children living on the streets

Thousands of children live on the streets of Latin America, living in public spaces, surviving by begging, child labour or different forms of exploitation. These children often have a home which they have left in search of a means of survival and, in many cases, do not know how to return. However, many children do not wish to return to their home because of the family situation, often defined as violent, or else they cannot return because they are prisoners of networks of exploitation, including sexual exploitation.

Latin American experts indicate that this problem is increasing because of poverty, inequality, violence and family breakdown, and even drug addiction, mainly affecting adolescents and young people who for one reason or another have become addicted and are thrown out of their homes as a result, with no other option other than to live on the streets.

Children who live on the streets are arguably those whose rights are most often violated. This is a blight on Latin American society and is the responsibility of both the state and society, each party with its own share of accountability.

Governments and NGOs have set up specific programmes to ensure minimum standards in caring for children living on the streets, such as informal education, food, health, etc.

» In **Chile**, according to statistics from 2005, there were 2,541 children living on the streets of whom 63.4% were boys and 36.6% girls. The majority (70%) were between twelve and 17 years of age. 41% worked in the informal sector and 12% were vagrants and 7% beggars. Only 14% of children on the streets reported having run away from home and the overwhelming majority (86%) reported having ties with their biological families.

» In **Colombia**, a UNICEF report from 2003 reported an estimated 30,000 children living on the streets.

» In **Honduras**, in 2003 around 20,000 children lived on the streets of the country's main cities. Most of these children still had links with their families; 43% had left home because of abuse, 18% because of a lack of affection, 13% in search of work and 10% because of drug abuse. There are currently five organisations registered with the Honduran Institute of Children and Families (IHNFA) who deal with children living on the street: four in the Centro Oriente region (mainly in Tegucigalpa) and the other is a home in San Pedro Sula.

» A recent study found that in **Mexico**, between 94,000 and 114,000 children live on the streets in the country's main cities, particularly in the metropolitan areas of Mexico City, Guadalajara, Monterrey, Tijuana and Ciudad Juarez. Furthermore, according to the Second Report on 100 cities, abuse is the main factor that leads to children running away from home and staying on the streets for long hours, even days.

» In **Venezuela**, official figures from the National Institute of Statistics (INE) reported that in 1994, approximately 5,000 children lived on the streets, rising to 9,000 by 1998. The latest official figures report 900 children living on the streets, of whom 53.9% are street children and 41.1% homeless street children (the national report defines this category as "children without parents or carers"). The three main reasons cited for children being on the streets are: economic problems, abuse and drugs

» In **Paraguay**, according to the UNICEF database from 2006, one of the main reasons cited for children having to enter institutions is life on the streets, and this accounts for 11% of all entries into institutions.

3. How are the rights of children without parental care being violated?

Children as heads of household

» **Ecuador**: 53% (261,318) of children live with their grandparents, 16% (77,355) with other relatives and 6% (27,447) with siblings. 2.3% (11,435) define themselves as heads of household, out of whom 65.29% (7,466) are male and 34.71% (3,969) female.

» **Colombia**: 44,595 adolescents were identified as heads of households; the majority (64%) are between 16 and 17 years old, but there is also a significant number between the ages of 14 and 15 (31%), and an incredible 5% between twelve and 13 years of age. It was also verified that there are 76,278 adolescents who are the partner of a head of household, of whom 3,147 are below the age of 14.

This phenomenon is a consequence of family problems that result in the abandonment of children by their parents or where the children end up running away (for varied and complex reasons, generally linked to extreme economic difficulty or abuse), or when a child is orphaned. In many cases, the older or teenage children take charge of the home.

Global discussion of this topic, within the framework of the UN Guidelines for the Alternative Care of Children, is focusing on implementing the provision of support for these homes by means of public policies as well as support programmes.

Violation of rights

The Convention on the Rights of the Child, ratified by all Latin American countries, lists all the rights granted to children, without any distinction. Nevertheless, children at risk of losing parental care, as well as those who have already lost it, find that their rights are systematically violated, not just their right to live in a family but many others, which are listed and summarised below.

→ *The right to live in a family and a community*

In all the countries in Latin America, there are children whose right to live in a family and community is violated. This is undoubtedly a fundamental right, as living in a family should in turn lead to the fulfilment of other rights, such as education, food, clothing and the development of independence, among others. Lack of family, as we have already seen, is often a consequence of extreme vulnerability.

The erroneous assumption that "it is better for children to live in an institution than in a family that abuses them" is the usual argument. Much thought needs to be given to ways of removing the dilemmas facing those working in large residential care settings that supposedly protect children. Often children are taken into care because there are no other options available, but this is not a satisfactory solution for anybody.

The findings of this study show the lack of alternatives that prevent the separation of children from their families and that counsel and strengthen families in their roles as carers. Institutionalisation is the usual response when children lose parental care, as demonstrated by the number of institutions and children living in them, in comparison with other options.

This is a hurdle which must be overcome in the creation

of public policies that allow for the fulfilment of the child's right to live in a family and an improvement of the current situation, in which many Latin American children's rights are being violated.

» **Guatemala**: experts believe that child rights are violated because of poverty, in many cases extreme, the lack of opportunities for parents to find work and earn enough to be able to fulfil their duties, the absence of good parenting programmes or programmes to prevent or treat addictions, and the lack of family planning.

» **Brazil**: according to the Brazilian Ministry of Development's Child Information System, of the 839,598 reports of violations of rights between January 1999 and June 2008, 48.1% of these related to the right to live in a family and community. Some carers recognise that they face a dilemma: sometimes the levels of domestic violence are such that it is preferable for the children to live in an institution.

» In the opinion of a **Chilean** lawyer: *"...growing up without a family has serious repercussions on the country as a whole. I feel that if we don't support, help and work together to keep all children with their families, and ensure that these families guarantee their children's rights (I'm talking about this from the point of view of a lawyer, not of a psychologist) we're going to see more violations of rights in the future. We're going to have adults who are not integrated or balanced enough to be able to fully relate to or function in their environment. Rather than sitting worrying, we need to work towards child rights being recognised and guaranteed..."*

» A child from **Colombia** tells us: *"Family Welfare is somewhere they put children from the streets; I was in a home with my brother for three years in La Mesa and I didn't like it... they hit some of the children a lot and didn't give us any love. The people who were supposed to be looking after us treated us badly."*

→ *The right to live without discrimination*

The common denominator linking most Latin American children without parental care is that they live in institutions or on the streets and are discriminated against in different areas, such as school, health centres and in the community at large. There are many prejudices surrounding the violation of this right and these can influence the way that children without families are treated. In the case of those living in institutions, children are isolated and not integrated into society. Many institutions still provide education, health and recreation services on site, which leads to the children becoming dependent on the organisation/institution, which is characterised by a deep sense of isolation.

The report from Mexico provides a good summary of what is happening with respect to Latin American children's right to live without discrimination:

- Street or institutionalised children are treated unequally and are stigmatised.
-Education, health, recreation, culture and participation are systematically denied to these children.
- There is a discrimination of care present in both state and non-governmental residential care.
-Children who are discriminated against are regarded merely as objects of care without the right to be heard or participate.
Adoption procedures contain all manner of discrimination: because of physical disabilities, indigenous features, or simply for being older than three years of age.

→ *The right to an identity*

For many children without a family, their right to an identity is violated. This has various aspects: preservation of history, respect for ethnic background, preservation of culture, having identification documents.

Centres that house children are often located far from their place of birth. Being taken into care often means moving schools, changing friends, neighbourhood and being separated from family and community. This makes it difficult to rebuild family ties, leading to children remaining in institutions and losing their place in the family and the community.

This right is also violated in cases where children are not properly registered when they enter an institution,

especially when they do not have identification documents

> » Experts in **Colombia** claim that these children have no way of finding out where they come from, they have no ties, are isolated and denied the right to education, access to their culture and recognition of their place of origin.

> » Specialists in **Honduras** warn against centres or homes imposing cultural and/or religious patterns that are different from those practised by the children in their families. This is because of the large number of religious organisations running homes and centres in Honduras. The cultural "gap" is enormous and even more worrying is the lack of interest shown in the importance of the right to a cultural identity, despite it being a fundamental human right.

→ *The right to freedom*

Rule 11.b of the Beijing Rules, adopted by the United Nations to provide guidance for the protection of child rights, states that when children are detained in establishments which they cannot leave as and when they wish is "a loss of freedom". This definition can also be applied to many of the institutions that house children who have lost their right to freedom because of abuse, poverty, orphanhood and being on the streets, and who have entered an institution against their will because they don't have anywhere else to go, breakdown of family ties or lack of the resources and independence that would enable them to live alone.

> » In **El Salvador**, specialists point out that the country has a public policy in place that focuses more on abandonment than integrated protection measures meaning that thousands of children are confined in institutions.

> » One child from a small private organisation in **Colombia** talks of the time he spent in a large state-run facility: "We've got more freedom here, whereas at the Colombian Institute of Family Welfare (ICB) you can't go out and meet other people."

→ *The right to participation*

The general conclusion drawn by the experts in the 13 countries studied is that children are not listened to. Channels for the participation of children who do not have families have not been set up as required by international law. Therefore, children are not listened to by the authorities when decisions are made about their circumstances.

The situation is the same in the institutions where they live. Sometimes they are given opportunities to be heard but this does not guarantee that their opinions will be taken into account. This means that they do not see themselves as having any right to voice their opinions, which often leads to them not reporting situations in which their rights are violated because of fear, lack of knowledge about their rights, low self-esteem and insecurity.

> » According to specialists in **Colombia:** "Just looking at the theme of participation, they (the children) are not taken into account because the power structure in place in these institutions does not give them a space in which they can express themselves. On the other hand, when they grow up with a substitute mother looking after a group of children, it's difficult for them to establish ties and feel like they're in a family."

> » Experts in **Mexico say**, "Children without parental care are particularly vulnerable to lack of opportunities to participate; the institutions and courts systematically make the decisions about their future.".

→ *The right to health and right to education*

Being denied parental care has a huge impact on children's access to education and healthcare. Those who are deprived of the care of one parent often find it difficult to attend school continuously or to access healthcare. For example, on occasion children are denied healthcare if they are not accompanied by their biological parents; other relatives, such as uncles, aunts or grandparents, are not seen as being responsible for the child.

The majority of social benefits do not include children who are not related to the benefit holder.

Occasionally it is it possible to rectify this situation if the adult becomes the legal guardian of the child, but this involves lengthy judicial processes and there are few flexible mechanisms in place for social security resources.

> » Studies in **Colombia** show that the percentage of children who do not attend school varies depending on whether they have parents at home. If one or both parents have died school absenteeism reaches 27% or 20% respectively, which is double the rate for children with both parents at home (11.4%). Other reasons for absenteeism are lack of economic resources and the need for the children to work. When both parents have died, these issues prevent 95% of children from attending school.
>
> » Health: statistics from **Colombia** show that not having parents is a determining factor linked to health risks for children as they have restricted access to healthcare. Two out of every three children whose parents have died (61.3%) are not registered in any healthcare system, whereas when both parents are alive, this percentage drops to almost half (37.6%).

4. Who is responsible for these children? What are we doing to help?

The state's responsibility

Governments have the greatest responsibility for the protection of children and for guaranteeing that their rights are respected.

There are three main elements to fulfilling this responsibility: strengthening society and families so that they respect and make sure that child rights are fulfilled; ensuring that all agencies and organisations working with children are respecting and fulfilling universal rights; and developing public policy actions that provide restitution for rights that have been violated.

The three branches of the state (executive, legislative and judicial) have specific duties and roles relating to children but all countries should work to decentralise services for children and families: local authorities should actively work to protect all children, especially the most vulnerable.

The state can be regarded as responsible either through its actions or by not complying with its duties: research carried out in the different countries has noted this often contradictory reality in which some states demonstrate innovation by coming up with effective protective actions while others violate the rights of children.

It is the responsibility of the Executive Branch in each country to plan the necessary public policies to ensure that rights are fulfilled and as such, each has designed a National Plan of Action for Children. This Branch should also develop and implement concrete prevention and assistance programmes so that children can live in a family. The Legislative Branch is responsible for passing laws in line with the Convention on the Rights of the Child and other human rights treaties, as well as approving the budgets required for developing policies for children.

Finally, the Judicial Branch should respect the rights of children involved in legal processes as well as prosecuting those who violate child rights.

All branches should ensure enforcement mechanisms so that children can protect themselves when their rights are under threat or being violated.

Important progress has been made in the region, not only in recognising children as having rights but also in recognising the family as the best place for children to grow up. Nevertheless, this progress has not been accompanied by plans, programmes and projects that put the legal concepts into practice.

This is demonstrated by some of the testimonials cited in the studies:

> » According to a civil servant in **Colombia:** "The Colombian Institute for Family Welfare promotes working with the family, but in practice the programmes are just specific protection measures. The question still remains as to what extent we can have a positive effect on the family but this is being implemented nationwide."
>
> » In the **Dominican Republic,** it is often reported that those who are directly responsible for caring for children lack training, supervision and monitoring.
>
> » *A Colombian child reported: "I don't know why Family Welfare takes children, there was a woman who had eight kids, the police arrived with Family Welfare, asked her some questions and took the children away."*

The increase of neo-liberal practices throughout the region during the 1990s often meant that child protection was privatised and the responsibility handed over to NGOs. On one hand, the state gave up its role as protector and, on the other, outsourcing policies were put into place whereby the states channelled their meagre resources to the NGOs, leaving them to make care arrangements directly.

This has led to a large number of institutions and homes without any state control or guidelines. However, those that did follow the state's guidelines found themselves taking on huge responsibility but

without sufficient resources or state-sanctioned training. According to specialists, children are still seen as objects to be protected without the ability to participate in and make decisions about matters that affect them. Because of this children, do not understand what is happening when decisions are made for them. This problem also arises, according to reports, within NGOs and the general public, making it difficult to create forums in which children can exercise their rights. The state faces many obstacles: inability to bring together the public and encourage them to participate in sharing the responsibility; insufficient budget allocation for children's affairs; difficulty setting up and maintaining independent institutions that can be controlled.
All in all, an inability to carry through the policy.

An expert from **Paraguay reflects on the problem**:

> » *"Article 54 of the Constitution states that the family, society and the state are obliged to guarantee the harmonious and integrated development of children, as well as exercising their rights fully." He goes on to say that: "nevertheless, these three duty bearers, instead of sharing the burden of responsibility equally, are bound by what the law dictates in terms of protecting the family and the provisions made in the Convention on the Rights of the Child and the Children's Code, presupposing that the family has received the protection needed from the state to be able to fulfil its role."*

Responsibilities of civil society: Non-Governmental Organisations

Through analysing private and government care providers Latin American countries, it can be inferred that "paternalistic culture" causes the main hurdles preventing the guaranteeing of rights. This means that the obstacles in the implementation of rights promotion and protection policies are not only caused by government difficulties, oversights or negative actions under a new paradigm, but also because civil society, individuals and organisations have a paternalistic relationship with children, without dialogue, regarding them more as "property" than as independent developing human beings. Therefore, the old practices remain entrenched and are the norm in Latin American societies.

» In defining the role of NGOs, an expert from Mexico highlights one of civil society's roles: "Monitoring to ensure that the state is fulfilling children's rights and, where necessary, report cases of abuse in institutions."

NGOs take the lead in implementing policies that safeguard children's rights, taking on dual responsibility as part of civil society and acting on behalf of the state and, in some cases, even defining public policy for the under-18 population.

It would seem that these organisations are part of a society represented by groups that still take a paternalistic approach; often operating with non-rights based criteria.

Family responsibilities

» In **Honduras** it has been established that: "child protection is the responsibility of society as a whole, but direct care falls to the parents or their legal representatives, and where these are not present, the state" (Article 83, Children's Code).

» Specialists in **El Salvador** claim that irresponsible parenting is rife, above and beyond the recognised causes.

» In **Guatemala** it has been identified that a "school for parents" should be developed in order to prepare parents and monitor them.

As discussed, it is necessary to understand the role of each party, the family, society and the state, how they interact with each other and in their roles of responsibility.

It is impossible to talk about parents' responsibilities without first understanding the role of the government, although it is important to recognise that parents have specific direct responsibilities relating to the care of their children. It therefore becomes pertinent to identify specific issues faced by children who have lost or who are at risk of losing parental care and who are more vulnerable to the violation of their rights than other children in their age-group or community who enjoy parental care. Children have a right to live with their family, extended family or community and this right should be guaranteed by the adults in

these social groups. For example, one of the causes identified as a factor putting children at risk of losing parental care is "irresponsible parenting". This is the case in **El Salvador**, where parental neglect is cited as a main cause of lack of care for children, and as such the parents are directly blamed for infringing their children's right to live and grow up in a family, cared for, disciplined and given affection, as a basic condition for their full development.

The specific role assigned to the family, as described in the report from **Nicaragua**, is a space for "human bonding", where children receive the affection they need to grow, and which is provided by the family into which they were born and to which they belong. If this space is not adequate, another family or the community may take over the responsibility.
An interesting resource is the school for parents, where, in a democratic and participatory space, adults are monitored and prepared for their role as parents, showing that there is a great difference between having children and bringing them up.

Responsibility of international organisations

International organisations, such as ILO (IPEC), UNICEF, UNDP, the United Nations High Commissioner for Human Rights, the Inter-American Court of Human Rights also bear responsibility for children without parental care.

Each of them, within their own spheres of action, is responsible for monitoring national governments and promoting policies to ensure that child rights are effectively fulfilled. Several of the reports point out that international agencies can actually be a hindrance in guaranteeing children's rights and do not focus enough on children without parental care or at risk of losing it. Another obstacle mentioned is that these agencies do little lobbying for national policies. This is linked to the fact that it is difficult to enforce international treaties such as the Convention on the Rights of the Child, which would ensure that the recommendations made by the UN Committee for the Rights of the Child are provided for and, if not, that some type of penalty is prescribed for the government in question.

Responsibility of donors

National and international donors who fund organisations and projects in Latin America also influence the actions taken in the name of children without parental care.

The requirements for raising funds often dictate the methods used to receive donations from individuals or organisations. Those in "social marketing" state very clearly that it is easier to raise funds for specific, often emergency situations by showing images of "lone children" without a family and in need of a home, than to find funds for projects geared towards promoting the independence of or strengthening biological families.

Donors are still moved more by a sense of charity and their distance from the society of those who have problems, rather than the thought of being of real assistance to those who belong to vulnerable groups, such as children without parental care and adults who cannot care for their family and community, in order to become integrated, independent and successful.

Conclusions and provisional recommendations

Below are some conclusions and "provisional" recommendations. It is hoped that as this Latin American Paper will be disseminated further and digested by its readers, new conclusions and recommendations will emerge to add to those listed here, made by the experts who collaborated on the full Latin American report.

Knowledge to work towards prevention and restore family rights

One of the main conclusions is that there is a lack of qualitative and quantitative information on key aspects of this issue. As such, we hope that this paper contributes to knowledge on the issue and that the gaps identified be pinpointed as future research topics.

We urge the public authorities responsible for children in Latin America to allocate a reasonable amount of funding to researchers in academic centres in the region, so that they are aware of and lobby for this issue. Similarly, we urge international cooperation agencies to allocate funding to generate independent knowledge of this area, identifying the issues that need comprehensive work in order to reinstate child rights.

→ *Protective factors*

Because of the importance of children enjoying their right to live in a family and community, the development of what we call "protective factors" should be explored and promoted.

Protective factors may be: **individual**, recently studied in the revitalised field of resilience; **family-based,** which comes under the field of child development

and paediatrics, measures to minimise abuse and neglect; and socio/**cultural.**

It is important to bear these factors in mind during social work with families, whenever they need support in developing their capabilities to care for, raise and protect their children. The necessary human and professional resources must be available for this work in order to yield positive results. The protective factors outlined in this paper, in particular cultural practices, are listed below.

→ *On children from native groups*

Further in-depth study on this topic is required in order to rediscover community childcare traditions practised by native peoples, so that they can be included in public policies.

For example, the "**circulation of children**" described by anthropologists is, to a certain extent, a community practice that can be regarded as a protective factor. However, the challenge in strengthening these community-based experiences should be highlighted and social policy mechanisms drawn up to monitor and oversee these practices, ensuring that rights are not violated in their implementation. Erica Brazil points out that: "in Brazil, the practices known as the circulation of children cannot always be presented as factors that prevent the loss or risk of loss of parental care as they are sometimes used to cover up other issues such as children employed in domestic service (especially when girls live with relatives or acquaintances and stop going to school) and physical, psychological or sexual abuse, etc." Therefore the majority of these informal practices can be described as protective factors but may also hide risk factors, and as such need careful monitoring.

Rosa Maria Ortiz alerts us to the need to identify "**harmful cultural practices**", in other words those that violate rights, when attempting to preserve cultural rights.

Testimonials in the national reports show that public policy planning in this area does not take into account the cultural differences found in native peoples and other minority groups but rather gives general national guidelines on childcare.

Widening knowledge on cultural practices in different ethnic groups living in our region and they must be considered as a variable when identifying risk factors for loss of family care as well as protective factors.

→ *On the problems surrounding loss of parental care*

We understand that the main problems facing the countries of the region are **poverty** and **inequality** and that these are indisputable causes of violations of children's rights, among which are the right to a family and, vitally, the right to enjoy parental care.

In turn, those children who have already lost this right are often victims of further violations to their rights.

"Poverty", when given as a cause, can be linked to other individual or family causes, such as disease, attributed to certain vulnerable groups (migrants, children from native peoples etc.). Although it is impossible to carry out an analysis "counterfactually", we can ask: how many poor families who have not been able to look after their children would have been able to if they had had enough money to care for and raise them? In other words: how many cases of "abandonment" or "neglect" are initially caused by poor socioeconomic conditions and lack of support networks?

It is impossible to look at any of the causes in isolation without first having an overview of the problem, which is clearly poverty and inequality.

If we delve into the root causes, **migration** was identified by the research as one of the factors that can lead to loss of parental care as, naturally, when adults migrate there is no one left behind to take responsibility for the home. Therefore, it is important to expand studies in the region to include "seasonal migration", both of children and adults, and migrant children. This is highly relevant and the movement of "unaccompanied children" is still not adequately measured.

The contributions made by Christina Baglietto and Cecile Maurin (ISS) should be highlighted here: *"Among the additional factors that may contribute to increasing the risk of family separation, we should mention a certain culture of **victimisation of the family***

(dependency on welfare, sporadic rather than ongoing support for independence and growth), the culture of taboo in several
countries, and the social fear of admitting the need to ask for help, as well as family separation resulting from divorce (this is not directly linked in this context but divorce is on the rise in the region and often authorities opt to take the children into care because of parental conflict)."

→ *On children, their contexts and the fulfilment of their rights.*

It is important to note the relationship between the **countries' main problems** and the major causes of violations of children's rights and in particular the object of this study: **children deprived of or at risk of losing parental care.**

In this sense, the search for solutions to the problems causing violations of children's rights in Latin America, including the loss of parental care, should take place in the arena of **public social policies** that are implemented by each government in order to resolve the scourge of hunger and inequality that characterise the countries of this region.

In this regard, the earlier points about abandonment are extremely important in relation to the fact that the main protective factor is **to redefine the family**, in this context meaning the extended family, including friends, godparents or others with whom there is no kinship. Taking this into account will enable us to understand that social programmes developed in order to protect children from loss of parental care should have a strong focus on strengthening the family nuclei that can protect them.

The study shows that the rights of **pregnant adolescents** from poor social groups are violated, which has a knock-on effect for their children

→ *On children in institutions*

One concern arising from the testimonials of children, experts and carers in the national reports is the **violation of the fundamental rights of institutionalised children.**

"Warning lights" should come on regarding this Latin American paper's descriptions of the rights that are being violated, beginning with the **right to live in a family and community.** The testimonials given by experts and children report violations of the right to freedom, expression and participation, the right to intimacy, education and others.[8]

Institutionalised children are described as being affected by: overwhelming feelings of loneliness; feelings of being misunderstood; isolation from society in general; lack of roots; uncertainty about the future through not knowing who will support, protect and accompany them; feelings of rejection; low self-esteem.

Progress must be made to set up family-based care options, along with the widespread deinstitutionalisation of the hundreds of thousands of children in Latin America who are being deprived of their rights and suffer from the feelings described above. The number of children identified as living in institutions in Latin America is 373,116. However, this is just the "tip of the iceberg".

→ *Orphans*

One particularly pressing issue is the huge number of **orphans in institutions**. How can we explain that high number of children living in institutions who have lost their parents definitively? Shouldn't these children be adopted into a permanent family?

It is understood that within this group there are some children who, for various reasons, cannot be adopted immediately. However, they cannot be made victims for a second time after already having suffered the death of their father and/or mother, only to be deprived altogether of their right to live in a family and rejoin the community. In the description of these children (see part 6 of the Latin American report), it states that they suffer from the "psychological effects of having lost their parents" and "low self-esteem".

There is a pressing need to implement **measures of adoption and foster care, on a case by case basis**, and maximise efforts to include the highest possible number of these children, considering family-based

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8. For more in-depth information on this matter, consult the Latin American report quoted in previous pages, part 6, "Main violations of the rights of children without parental care", in www.relaf.org

care for small children and group living arrangements as a support mechanism for adolescents.

→ *On the duty-bearers*

This paper has clearly shown that the rights of children without parental care or who are at risk of losing it are "doubly violated". Because they lack basic care and the parental control provided by nuclear families, primarily in the first years of life, we believe that this problem needs to be pinpointed by government institutions and civil society, as they have direct responsibility for caring for children and guaranteeing their rights.

Latin American countries must recognise that this specific issue has a huge impact on the region and, as such, plan public policies for family strengthening, which includes the recognition of single-parent families, extended families and the various methods that these groups use for survival. Governments must appreciate that it is essential to prevent further loss of parental care for children and that those who have already lost it require special care, based on remaining in or rejoining their original community.

→ *The threat of setbacks and interim progress*

It is important to ensure that any progress made in the region towards promoting the right to family and community life does not suffer **setbacks that lead to the implementation of paternalistic policies.** This has been the case in the "City of Children" in Guatemala, a building constructed recently to house hundreds of children without parental care. Another setback was found in the recent debate surrounding the "Preventorio Perez Aranibar", a home in the city of Lima, Peru, which can house 650 children. The controversy arose when the bishop who runs the home instructed the government "to fill the 650 beds as there are only 300 children". The government agreed to channel funds and ensure that the maximum number of children enter the home.[9]

Progress in **legislation** has been important in the region, not only in terms of identifying children as

9. http://elcomercio.pe/noticia/444584/puericultorio-tiene-300-camas-vacias-ley-le-impide-acoger-ninos-pobres_1 (March 20, 2010)
http://elcomercio.pe/noticia/444759/puericultorio-perez-aranibaraten-dera-al-maximo-su-capacidad-desde-proximo-lunes (March 20, 2010)

rights holders but also in recognising the importance of biological families. Nevertheless, this progress has not been accompanied by plans, programmes and projects to put the legal concepts into practice. The main reasons for this state of affairs may be an inability to take political decisions, limited budgets for this type of public policy and/or lack of technical capacity.

The decentralisation of programmes plays an important part in making benefits **more accessible** and therefore expanding the system. As such, it is important to pay special attention to their promotion, as limited access to programmes is often due to a lack of communication and lack of knowledge about who can benefit from each one (i.e. families and children).

→ *For international cooperation agencies*

There is a pressing need to carry out comparative studies at the Latin American level, analysing the various aspects linked to the risk of losing parental care. In such a large, diverse continent, marked by profound inequalities, the complex task of research certainly requires both technical and financial support from the international cooperation agencies. However, we should stress the fact that Latin America must also contribute its own human and material resources. As outlined by the Latin American report, the problem is not that there are no resources available, but that they are badly allocated and, in the case of public social policy, often badly invested. Likewise, the academic research centres in our region are brimming with people who are highly qualified, many of whom are aware of the issues that require further in-depth study.

Finally, despite no mention in any of the 13 collated reports, (the source of this Latin American paper), we must highlight the important role played by **Independent Human Rights Organisations** in each country in protecting child rights and promoting and monitoring adherence to the Convention on the Rights of the Child, as established in General Observation N°2 of the UN Committee on the Rights of the Child.

Strengthening these independent agencies where they already exist and creating them where they

do not is, without a doubt, a great challenge for the region.

Glossary [10]

→ **Foster care**: a type of care in which the child becomes part of a family without the family's daily routine being significantly disrupted. The family takes on the responsibility for protecting the child for as long as necessary. This may be a formal or informal arrangement (see **alternative care**).

→ **Alternative care:** The fact that a child is not being cared for by their biological mother or father does not necessarily mean that the child is not being cared for. Other members of their extended family and/or the community may take on this responsibility. As such, alternative care can be a formal or informal arrangement in which the child is cared for outside the parental home. This can be the result of a decision made by a court or administrative authority or other duly accredited body, at the request of the child, their parents or primary carers or as a result of a spontaneous decision taken by a carer when the parents are absent. This term covers any informal living arrangements made for the child with other members of the family, friends or acquaintances, other forms of residential care (see institution), transit centres for emergency situations, other long or short-term residential facilities (including group homes or living arrangements where children live independently but still under some form of supervision). Alternative care may be:

- **formal:** any placement within a family ordered by a court or competent administrative authority, as well as any form of institutional care, including private centres, as the result of an administrative or court decision or other.

- **informal:** any privately agreed placement of a child within a family where the child is taken care of for an indefinite period of time by relatives or a family friend (informal foster care) or another by mutual agreement, on the child's, parents' or another person's initiative but not by a court, administrative authority or any other duly accredited institution.

→ **The scope of action of alternative care** does not extend to children whose freedom has been taken away as a result of their being in conflict with the law. This is covered in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice and the Rules for the Protection of Juveniles Deprived of their Liberty. Nor does it apply to cases in which a child has been adopted (although it does cover pre-adoption care) or an informal arrangement where the child willingly stays with relatives or friends for a limited period of time for recreational purposes or other reasons unrelated to their parents being unable

10. This glossary is based on the following documents: *Guidelines for the Alternative Care of Children (UN), and UNICEF And International Social Service. Improving Protection for Children without Parental Care ; A Call for International Standards.* (A joint Working Paper, August 2004.)

to provide adequate care.

→ **Child-headed households:** There are many examples of situations where children have spontaneously created their own "households" on the death of their parents. Such households tend to be composed of children from one family, where the eldest takes on responsibility for the welfare of his or her siblings. But there are other compositions: a mix of family and non-family children, or even a group of unrelated children. Often these households are formed in response to a specific emergency situation, such as armed conflict or the HIV/AIDS pandemic, although they can be created for other reasons.

→ **Adequate parental care:** win this type of care, the child's basic physical, emotional, intellectual and social needs are met by their carers and the child can develop their full potential. Adequate parental care goes beyond the absence of abuse, abandonment or exploitation, indeed, it is implicit that child has enough resources and is cared for sufficiently to be able to develop healthily. This means, for example, that the child lives within a family, with a primary carer, is protected and cared for adequately and has access to education and sanitation. Children living below the poverty line who live or work on the streets, and those who are at risk
of being excluded by their families or who suffer abuse, exploitation or abandonment are considered to be victims of inadequate parental care.

→ **Family-based care:** when a child lives with a family other than his/her biological family. This term covers foster care, households headed by children and adoption.
Care in a "small group homes" would not fit this definition, although often no distinction is made between "foster care" and institutional care.

→ **Family:** a group of people who share kinship whether or not to the first degree. We understand the family to be the smallest unit of belonging made up of significant ties even when there is no mother and/or father present.

→ **Institutionalisation**: when a child lives in an institution.

→ **Institution**: a place where people are responsible for caring for children. This definition covers a wide range of places from orphanages, where there is usually a large number of children, to the "home", small institutions that seek to recreate a family setting with a small number of children and a stable carer. The carers in homes live full-time with the children. The Guidelines for alternative care of children (UN) defines residential care as care provided in any non-family-based group setting.

→ **Children without parental care**: all children not living with at least one of their parents, for whatever reason and in whatever circumstances. Children without parental care living outside their country of habitual residence or who are victims of emergency situations may be called "unaccompanied or separated"

→ **Children:** In order for this document to be read more easily, the term children includes girls, boys and adolescents below the age of 18.

RELAF
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SOS CHILDREN'S VILLAGES INTERNATIONAL
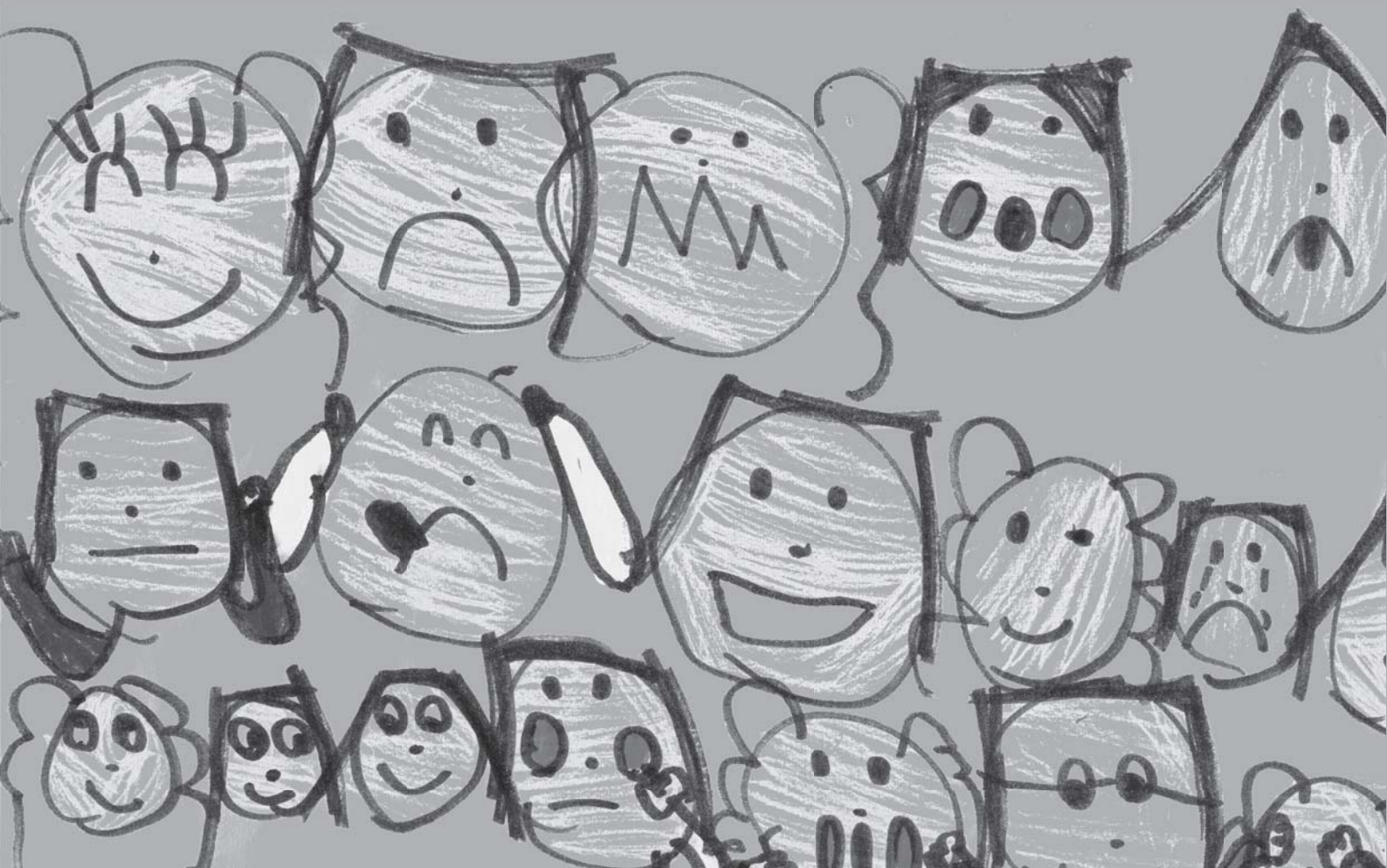
The Latin American Foster Care Network (Relaf) is an organisation that works towards the fulfilment of the Right to Family and Community Life. Its objective is to create and strengthen the network of key regional players in order to contribute to the process of release from internment for children and adolescents, as well as promoting forms of family-based alternative care.

The specific model employed by Relaf is foster care. Using this method, a foster family takes responsibility for the care of children and adolescents (for days, months, or even several years, without creating a legal bond) while their families of origin are not able to care for them.

To achieve this aim and encourage development of the practice, Relaf carries out advocacy work, produces information for organisations and governments, as well as providing technical assistance for the management and maintenance of related projects.

Currently, Relaf has a Work Team in Buenos Aires, a Latin American Consultant Council and an Advisory Commission. It is a member of the NGO Group for the Convention on the Rights of the Child.

SOS Children's Villages is a non-governmental non-denominational organisation working for children. It aims to have a direct impact on childcare, education and health to promote the wellbeing of children who have lost and/or are at risk of losing parental care.

The organisation helps train the children's carers, their families and communities so that they are capable of providing adequate care.

SOS Children's Villages has over 130 national associations around the world. Currently there are 150,000 children, young people and their families taking part in family strengthening programmes and 16,000 in family-based care in Latin America and the Caribbean.

The SOS Children's Village family-based care model recreates the family setting in small homes where siblings remain together and are cared for by an SOS parent.

SOS Children's Villages also advocates the rights of children who have lost or are at risk of losing parental care.

This organisation was founded in 1949 and bases its work on the United Nations Convention on the Rights of the Child.

www.relaf.org | www.sos-childrensvillages.org