



A summary of Alternative Care in Guatemala

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Introduction

Around the world, families form the integral thread of society, serving as the primary protective hedge around the most vulnerable, especially children. When a family is unable to care for its own children, relatives and sometimes other families within the community have traditionally shared the burden allowing the child to grow up with a similar lifestyle in a familiar setting and within the same community. However, with the growth of the human population and different disasters, changes in context and economic challenges, this traditional type of care, referred to as kinship care, has often been sidelined over residential care facilities. Evidence from child development and social science has created enough impulse for the pendulum to swing away from this institutionalized model of care and back towards

family care. Kinship care is widely practiced around the world, yet often with little support for the families caring for children and limited safeguards for the children in care.

Alternative Care in Guatemala

The child protection system in Guatemala is overly reliant on residential care facilities with over 4000 children and adolescents in more than 120 residential care facilities and only 122 accredited foster families.¹ While this number of foster families may appear to be low, it does not represent the actual number of children living in family-based care, as informal alternative care has historically been an important part of Guatemalan culture and society. According to a recent study,² an estimated 79% of Guatemalan families would consider temporarily providing care

1 Solicitud 338-2021, Department of Temporary Family Care (Substitute Families) of the Secretaría de Bienestar Social

2 Opinion Study by Gallup in coordination with CTWWC, 2019, pg. 69

Kinship Care with family friend

“Gabriel spent a total of two years living in an institution after he was separated on two occasions from his mother, once for her imprisonment and a second time for physical abuse. After his second placement in a residential facility, a CTWWC team found a close family friend (Gloria, 47 years old) who was willing to care for Gabriel. The team worked with Gloria providing some economic assistance which allowed to move into a larger, more suitable home before receiving Gabriel in her home. After months of follow-up, the team reports an excellent adaptation and a successful integration of Gabriel into Gloria’s home.”

or a child in need, which provides insight into the socio-cultural threads and traditional values that hold communities together. This statistic shows an overwhelming willingness of Guatemalans, in general, to care for vulnerable children, yet the actual protection system poorly represents this interest and willingness to participate in alternative care. As domestic and international pressure mounts on key actors to avoid the placement of children into residential care at all costs, judges are sending children to institutions as a last resort, yet the need for better and more defined archetypes of alternative care is greater than ever. Currently, judges who make decisions regarding the placement of children in residential care are extremely limited in their options as the lack of formality, consensus and availability within alternative care is debilitating.

Family-based care in Guatemala can be divided into two major groups: foster and kinship care; the former being highly regulated and the latter as a more informal and less-documented option. In the context of family reintegration, judges rely on evaluations provided by the Procuraduría General de la Nación (PGN) and, in some cases, the residential care institutions to place children in their nuclear, extended or otherwise affiliated families (e.g., close family friends, neighbors or members of the same ethnic community). Due to a lack of

effective documentation of reintegration and alternative care placements, it is unclear how many children are currently living in kinship care. There are no central databases which track this. There are great needs within the realm of alternative care as foster care grows at a slow rate and the need for formalized kinship care grows. Adoption plays a minor role in the fate of orphaned children, with the Consejo Nacional de Adopciones (CNA in Spanish) reporting an average of 100 domestic adoptions per year.³ Considering the limited options for children in the protection system, judges are faced with difficult choices and often prioritize the placement of children in biological families, even if there are more suitable options in kinship care.

Foster Care

The *Secretaría de Bienestar Social* (SBS) is the governmental entity in charge of recruiting, training, certifying and providing follow up for these families. However, over the past 10 years, they have begun to delegate certain steps of the process in formal working agreements (MOUs) with different NGOs specifically to share the load of recruiting, training and providing follow-up while retaining the exclusive right to the certification of the families. Foster families currently receive a stipend of Q 1200 (\$158) per

Foster care of teenage mother and twin daughters

“The Gutierrez family began visiting Ana (age 16) and her twin daughters (age 1) in an organization that had a residential program for teen mothers as well as an active MOU with the SBS to recruit and train foster families. After a visitation and a rigorous preparation and certification process, the Gutierrez family received Ana and her young daughters as their foster family. Two years after the placement, Ana is now an adult and continues to live with the Gutierrez family as she learns to mother her 3-year-old daughters and continues her education. Ana is currently in grade 6 and hopes to graduate high school and establish herself with a stable job before leaving the foster family.”

Kinship care reintegration with mentors

“In 2018, Magaly and Jorge (a Guatemalan couple) were certified by a local church ministry to become mentors of a brother and sister who resided at a residential care facility. After two years of visiting the teenage siblings in a mentorship capacity (using video calls during the COVID-19 lockdowns), they formally presented their case to the children’s court in a court hearing and were given custody of the teenage siblings as extended family. This case is now archived in the children’s courts and there is no official follow-up provided by the government to this integration.”



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These images are used for representation. The individuals pictured are not related to the work of Changing the Way We Care.

month from the SBS and are provided psychological care and training during the pre-placement and placement process. The Supreme Court issued guidelines on foster care stating that placements should not exceed six-month periods, however a judge has the jurisdiction to extend this period based on the best interest of the child.⁴ This same decree prohibits foster families from adopting the children they receive.

Different efforts from the SBS and its collaborating NGOs have resulted in more teenagers, children with special needs and sibling groups be placed in foster care families. This shift is beneficial and appropriately responds to the real needs of the protective care system. Of the 122 families that are certified as foster families in Guatemala, some have had their children in their care for more than five years. Although regulated by the National Adoption Law,⁵ Supreme Court regulation prohibits foster

families from applying to be adoptive families of the children they care for, which prevents some children from finding a permanent solution and the restitution of their rights to a formalized identity in their families. While this prohibition remains in place, some families will reject the notion of becoming a foster family as their goal is to eventually adopt. In other cases of these long-term placements, the judges seek to change the status from foster care to extended family. However, this change in status would prevent the foster families from receiving the stipend that is essential to some of these families’ wellbeing.⁶

Kinship Care

The concept of kinship care has existed in informal ways as a component of the culture with 41% of families having reported that they cared for a child that was not their own.⁷ However, this is typically done with little to no governmental oversight.

4 Supreme Court agreement regarding alternative care, 40-2010

5 Ley de Adopciones, decreto no. 77-2007, www.cna.gob.gt/leyes

6 Interview of foster families conducted by David McCormick, 2021

7 Opinion Study by Gallup in coordination with CTWWC, 2019, pg. 37 Supreme

Kinship Care with family friend

“After being found in a precarious living situation marked by abandonment and child labor at the hands of his biological mother, Juan was placed in residential care in his community. At this point, the CTWWC professionals identified his case and were able to find a 63-year-old neighbor, Marta, from his community that was willing to take in Juan as kinship care. The CTWWC worked over several months to prepare Marta with parenting classes, establishing educational goals, and preparing to receive Juan in her home. After this process, Juan was successfully placed under Marta’s care where he has remained under the supervision and follow-up of the CTWWC, and, after two years, continues to be a successful reunification.”

There are currently two legal concepts of kinship care, one being that of the extended family and the other of kinship care (*familia ampliada* and *familia equiparada*, respectively in Spanish). Extended family care is utilized in many cases where judges have become more inclusive of families not sharing any level of actual familial relationship, placing children and youth in the care of families or individuals who have acted as a family for the child in same way.

In the aforementioned decree issued by the Supreme Court in 2010, the concept of kinship care was formalized (*familias equiparadas* in Spanish), where judges were provided with a legal concept of placing children and youth with families or individuals that were not related to the children or youth requiring care. This has provided judges with an alternative measure in placing children and youth with families or individuals that, according to psychological reports, have “affective ties”. These cases are often archived in the children’s courts with little to no follow-up provided.

Key conclusions

- While there have been advancements in the formalization of family-based care, specifically in kinship care, there are great challenges that exist such as educating the Guatemalan population on the need for and ways of providing alternative care.
- Due to a lack of consensus and formalization, there is often bias among judges to place children with their biological family even if there is a more stable and adequate kinship care family.
- A disjointed legal structure for family-based care does exist, however there is a great opportunity for new legislation to comprehensively define, structure and regulate alternative care as a viable option for placement. Legislation with clarity and structure regarding kinship care would allow judges to have different options to reunify children and prevent placement in residential care.
- Considering the general disposition of the Guatemalan population, there is an incredible opportunity for the SBS and supporting NGOs to recruit additional families to grow the foster care network.
- Specific prohibitions and regulations, such as the inability of foster families to adopt, should be evaluated and amended to benefit the children in a more enduring way.
- Kinship care is much more common than is known statistically, but a lack of documentation and systematization hinders an effective evaluation from taking place.
- The work CTWWC and other organizations have done in successful reintegration of children in kinship care is indicative opportunities and need that exist future work.



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