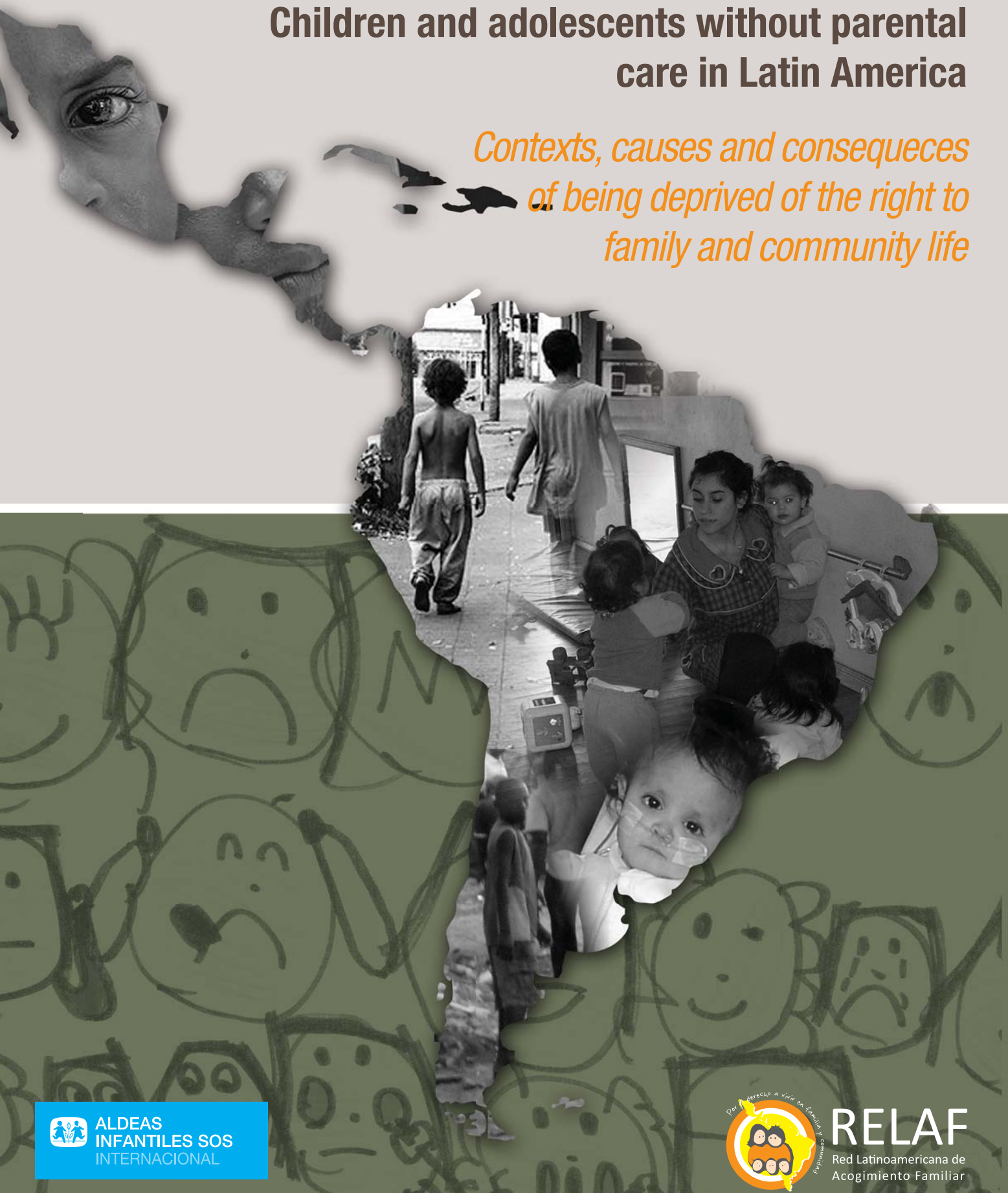




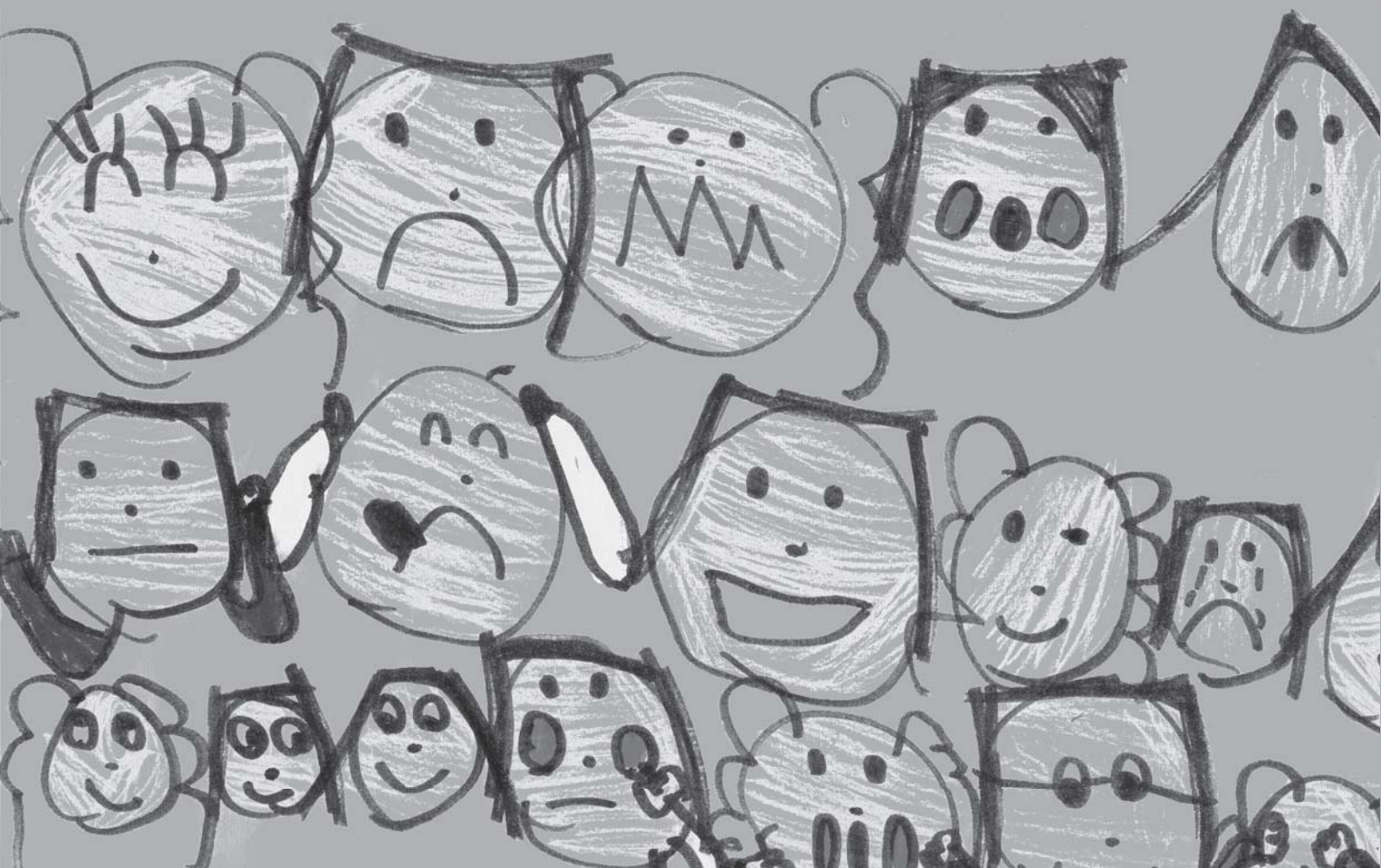
Children and adolescents without parental care in Latin America

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



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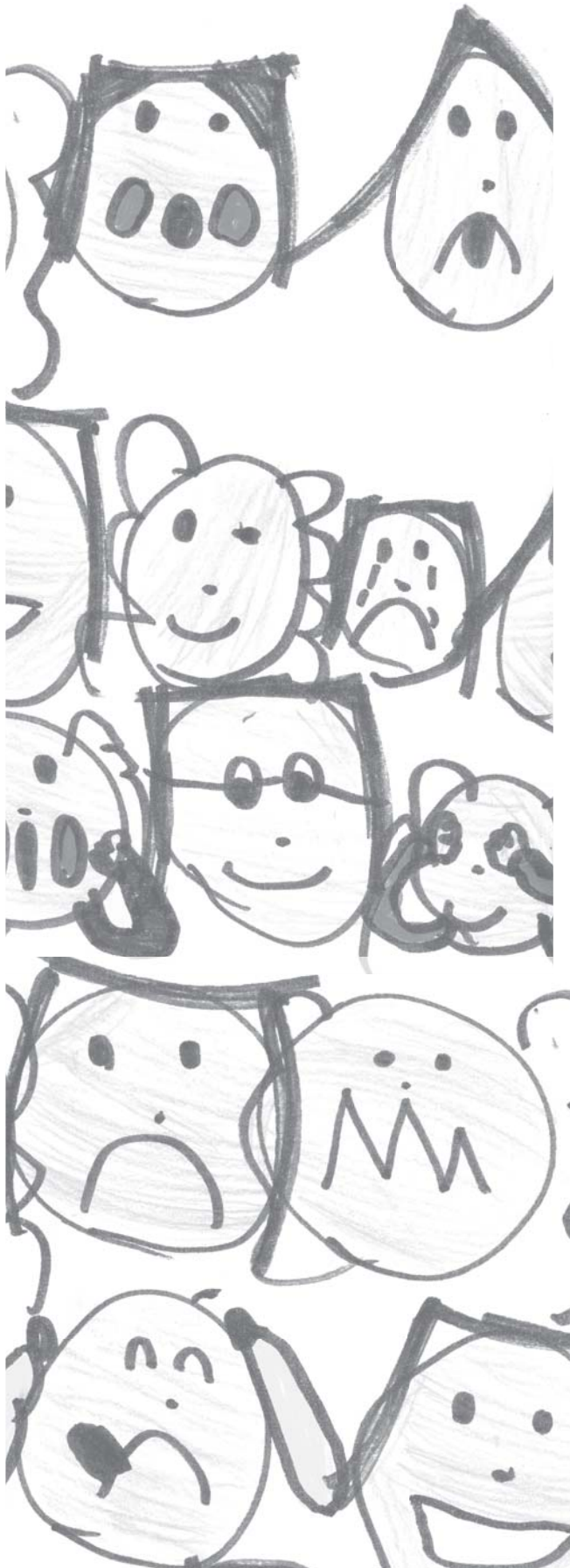


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Presentation

“...we can only remain alive and dynamic if a continuous effort is made to respond to changing conditions in the society involved and to accept new challenges in the interest of the welfare of the children”.

- Hermann Gmeiner -

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

This paper aims to show different organisations, institutions, governments and civil society the reality facing thousands of children in Latin America.

We hope that this information is used as a tool for debating and prioritising the issue as well as promoting constructing good practices and public policies that will improve the wellbeing and chances to develop of children without parental care and/or who are at risk of losing it.

This paper can be used as a tool for advocacy, to promote and defend child rights. Understanding their situation will lead to an ever-growing commitment to work towards finding more opportunities, improving our practices and related legislation, and seeking more funding and tools for implementing them properly.

SOS Children’s Villages are currently focussing their efforts on meeting our strategic objective of 1 million children growing up in families that care for them. This means focussing our resources and developing programmes in places where there is the greatest need and the areas where we can have the greatest impact. Researching and analysing the situation of children in Latin America is a tool used for taking decisions and our commitment to defining where we

will work.

This paper reinforces the principle of cooperation and our conviction that we cannot work alone; we need to work in partnership with the governments, the different organisations and civil society, the stakeholders and communities 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 search for solutions that respect this right.

SOS Children’s Villages is committed to doing more in-depth research and analysis and we hope that in the future governments and other organisations will join us in our effort so that this report is continually being added to and enriched.

Yours,
Heinrich Müller, Secretary General for Latin America and the Caribbean
SOS Children’s Villages International

Introduction

There are thousands of children in Latin America who lack parental care meaning that the basic conditions are not in place for child development: belonging to a group that recognises them as individuals, cares for them and respects and satisfies all of their rights.

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

SOS Children's Villages Latin America and Relaf –the Latin American Family-Based Care Network Red – agreed to prepare the report mentioned above so that it could be used as a source of information provided by the researchers in the different countries and be an overall view of the issue in the region. Both organisations defined the objectives and the variables of the study together.

Once the aims had been defined, Relaf set up an interdisciplinary team that did a critical analysis of the national reports. The team was made up of an anthropologist, a sociologist, a social worker and a social communicator. All of the members of the team, including the coordinator, have experience in research and child rights. An assistant, who is an advanced student of anthropology, was also present.

The information obtained was complemented by a specific bibliography as well as a description of 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 without parental care or at risk of losing it in Latin America. This is the full report and contains two annexes: "An annotated bibliography" and "Commitments at international events"*).

Those responsible for preparing the national reports are highly experienced in research and used a varied methodology: gather statistical information from sources available in their countries; focus groups with "key actors"; interviews with decision-makers, children, families, etc. The results of their work are highly relevant given that there is such a dearth of systematised information about the issue.

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

Once the draft version of the Latin American paper was finished, international experts analysed the reports and made suggestions on how to improve it. Their committed work enabled us to make some changes. Contributions were also received from Rosa María Ortiz, member of the UN Committee of the Rights of the Child; Erica Brazil, a researcher from the University of Nottingham, England; Christina Baglietto and Cécile Maurin, from the International Social Service International Reference Centre; Maria Eugenia Villarreal, from ECPAT -End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes, Latin America, and specialists from the advocacy department of SOS Children's Villages.

It should be mentioned that for many of the variables that we aimed to analyse there are no data, neither official nor from academic bodies or organisations dedicated to protecting child rights in much of the region. Therefore, the reader will notice that in the Latin American report and this paper some of the key information is missing in some of the 13 countries studied. Nevertheless, using the situation of Latin American children as a backdrop, this paper is a huge step forward giving us an overall view of the situation 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 become a valuable source of information for those working with alternative care and others who, in their different sectors, are key players in raising the visibility and awareness of and implementing adequate responses to this issue, the media and the general public.

¹ The full report in Spanish can be found at www.relaf.org
Latin American Paper

We also hope that, despite its limitations, this paper will contribute to finding out about, reflecting on and putting into practice the best options for childcare so that our children 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?

There are many varied, complex reasons why children find themselves without parental care as are the impacts on the children's lives².

It is necessary to look to the main political, economic, social and cultural problems that the region's countries face to be able to then identify the reasons why children lose parental care. The causes can be grouped together under the following headings: **political**, such as war and the forced migration that results; **economic**, which leads to a different type of migration and other types of family vulnerability, such as lack of access to health, education and housing, child and adult malnutrition, which are directly linked to **social and cultural problems** such as domestic violence, addiction, child labour and commercial sexual exploitation, to which can be added discrimination based on handicap or ethnic background.

The children who currently lack parental care have always fallen into one of these groups at risk. The information that is systematised and summarised here shows that there are many identifiable reasons why children are without parental care and so therefore the children who are at risk of losing parental care can easily be identified.

First the context of the causes will be identified and then they will be listed and described.



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

1. Relation between the lack of care and poverty

Latin America is a continent characterised by great **social and economic inequality**, both between different countries and within countries themselves, which has risen during previous decades. Another characteristic of the region is the large percentage of the population that lives below the **poverty** line, affecting an average of over 30% of the population (see the map at the end of section 1).

Poverty and inequality are seen as the main causes of children losing or being at risk of losing parental care. However, it must be understood that although **poverty has been identified as the main cause of this problem, there is no linear relationship between poor children and those without** parental care.

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

All of the issues linked to the risk of losing parental care are the same as those that compound the risk of losing parental care, which leads us to emphasise the need to study them more in depth from the point of view of prevention, protection and family strengthening to avoid situations that may lead a child to lose parental care.

2. Identification of causes and conditions that children without parental care face

→ *Demographic concentration in suburban areas*

» In the large cities of Latin America, the unchecked sprawl of neighbourhoods springing up without urban planning are given many names: “villa miseria”, “barrios”, “favelas”, “pueblos jóvenes”, “asentamientos urbanos”, and others.

The analysis of the region showed that rural areas present higher levels of extreme poverty. This leads to internal migration, from rural areas to large cities, where large numbers of migrant families settle in “rings” around the capital or most important cities. This migration from the countryside to the city is usually the result of families, adults and children, looking for better means of living as the suburbs provide more access to some type of housing, schools, health centres and, possibly even more importantly, more chance of finding temporary informal employment or other means of survival.

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

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

→ *Difficulties 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%, respectively³.

» The countries in the region with the highest adult death toll as a result of HIV/AIDS are the poorest: **Haiti, Nicaragua and Guatemala.**

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 a cause of loss of parental care and also one of the characteristics of children who have already lost the care of their parents because they are infected with the virus. This means that this cause has two dimensions: adults infected with HIV/AIDS who cannot look after their children, and infected children. This issue is on the rise and difficult to make public in the region.

HIV/AIDS is one of the main causes of orphanhood in the region; although it can be controlled of access to healthcare and the necessary medicines is guaranteed.

→ Orphans

- » **Colombia:** according to report published in 2005, there are 835,410 orphans. Given how difficult it was to gather information on this subject, the number is probably higher.
- » **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 the rural area and the remaining 47.2% in the urban area.
- » **Mexico:** it is calculated that there are 1,600,000 orphans, at least 40,000 because of HIV/AIDS.
- » **Venezuela:** 480,000 orphans.
- » **The Dominican Republic:** 120,500 orphans. Most of the children in institutions are orphans without hope of having their right restored to living in a family after losing their own. Nevertheless, often when children lose their parent, relatives and communities take them in so that they remain within the group that they are linked to.

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

In most Latin American countries children are orphaned mainly 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 in children being at risk of losing parental care. 32% (1,499,308) of children are at risk of losing parental care altogether and the majority lives in a family headed by just one parent.
- » In **Paraguay**, of the total number of children at risk of losing parental care, 25% lives 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 the adults at risk, along with family breakdown caused by fathers abandoning the marital home. It seems that the breakdown in relationships is linked both to conflict generated by the stress of being low wage-earners and problems related to low emotional development, which make it difficult for adults to face conflict, understand their adolescent children and provide children with the support they need, and others.

To this can be added the problems linked to gender where the cultural norm is for children to be their mother's responsibility, where children "should" stay with the mother and in the case of a mother not taking responsibility for her children, she is seen as not being "natural", which is not the case for fathers who do not take responsibility for their offspring. Gender inequality is rife in the region where the myth of the maternal instinct and the blind eye turned to men abandoning their families and turning violent are the norm in a country with a strong sexist tradition.

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

→ Teenage pregnancy

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

Teenage pregnancy in the region is also a cause of children losing parental care. Some of the factors linked to this issue are as follows: teenage heads of households, domestic violence because of the pregnancy, and adolescents leaving home because of their parents' disapproval of their situation.

Studies show that adolescents from poor neighbourhoods are more likely to become pregnant for several reasons: lack of information about bad access to contraceptive methods, lack of knowledge about family planning, lack of parental control, and an inability to see that there is a future without it including being a mother. This latter point is further proved by the number of adolescent girls who willingly become pregnant as it is the only way, consciously or unconsciously, that they feel that their life makes any sense; once again linked to the strong cultural rule of women only being worth something once they become mothers.

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 dimensions: 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.

Once 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 again leads us to ponder the importance of supporting these "extended" families.

→ Child labour and/or sexual and commercial exploitation

- » **In Chile** 238,187 children between the ages of 5 and 17 work of whom 106,676 (44.9%) work in unacceptable conditions (e.g. children below the age of 11, children between the ages of 12 and 14 who have dropped out of school, children between 12 and 14 who work for 14 hours or more a week), and 68,000 below the age of 15, 88,428 (37.1%) adolescents work in decent conditions and 42,083 (17.6%) do domestic chores for at least 21 hours a week, of whom 85% are female. These figures, despite being important as referring to the overall population of children in the country, do not include the number living on the streets or in institutions. Neither does it include the "silent" workers as we might call those children working in "the worst jobs where children work" such as the sex trade and drugs trafficking.

On the other hand, seasonal farm work is often done by minors, mainly boys, aged between 5 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 5 years of age.
- » **In Mexico an estimated number of 80,000 children are victims of sexual and commercial exploitation.**

A significant percentage of children involved in some kind of child labour or exploitation has lost or is at risk of losing parental care. Several dimensions to this issue should 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 of covering daily basic needs. In some sectors child labour is accepted as part of the family economy, such as in rural areas where the children work in farming activities; sowing, harvesting, selling produce and herding animals.

The region also accepts employing minors as maids, both within the family home and outside, from a young age as a cultural norm.

Child exploitation includes an invisible crime: often it

is the parents themselves who “deliver” their children into employment.

→ *Difficulties accessing education*

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

» **Nicaragua:** only 40% of adolescents aged between 12 and 17 attend school.

Difficulty accessing formal education is a characteristic of children at risk of losing parental care, along with their parents having low levels of formal education. When children have to move to a city to attend school they often stay with relatives or family friends but lose parental care.

In Paraguay this is the main reason why children live with relatives or even strangers.

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

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

» In **Mexico**, of the 4 million children between the ages of 6 and 17 who took part in a study in 2000, 28% of the children aged between 6 and 9 said that they had suffered violence within their families.

» In **El Salvador** the different types of child abuse (physical, sexual, emotional) were identified as the second most cited reason for children entering institutions and accounted for 16.6% of the number of cases attended to 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 done in Latin American countries show the need to delve further into domestic violence, its cases and effects, to then tackle the variables that make up this issue. This is why this paper groups together domestic violence, the levels of drug use, conflict with the law, abuses and irresponsible fathers.

The issue of irresponsible fathers should be placed in context in homes that suffer different social conflicts: 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 of the utmost importance not to “demonise” the poor of Latin American countries but rather to understand which basic living conditions their governments do not guarantee that give rise to extreme conditions and, as a result, look for a strategy that prevents and does not punish as the main and sometimes only response.

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

» In **Colombia** the national demographic survey (ENDS) has shown 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 2 are orphans whereas 8.9% between the ages of 10 and 14 are orphans. Finally, the same survey shows that 44,595 adolescents are heads of household 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 10 and 14, leave their homes and choose to live without parental care, often on the streets, sometimes in overcrowded conditions in suburban areas. Many become parents at a young age and the vicious circle of lack of rights is reproduced.

Teenage heads of households take on the responsibility for looking after children, be they younger siblings, their own children or other children that they are somehow linked to. The reasons why

adolescents become heads of households are varied: one analysed above is teenage pregnancy where often a young person is forced to form a family and become the head of the household. Sometimes adolescents become the head of the family when the parents or adults who they live with abandon them, die or migrate.

→ *Natural disasters*

- » **Mexico** occupies the 12th place in the world ranking of countries affected by natural disasters: almost 10,000 people died because 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 are often orphaned when their parents die or disappear. Countries such as Guatemala, Mexico, Haiti, Chile and Peru have suffered successive natural disasters in the last few years and are yet to recover. The poverty that existed beforehand limits the possibility of having an infrastructure capable of caring for its population in an emergency situation. As proved in Haiti, the international cooperation can be used by national authorities taking advantage of the chaos and extreme needs affecting 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 calculated that** 2,414,269 people, of whom 35.6% are below the age of 17, have been forcibly moved from their places of origin to other areas of the country as a result of the armed conflict in the country.
- » **The Dominican Republic** is a country from where many minors emigrate but it is also a country that receives many migrants from neighbouring Haiti, whose population is

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 the money they receive from them. 20% of the children in Honduras who do not live with their parents are in this situation.

Migrants suffer in the countries where they migrate to. Discrimination is one of the most difficult factors as it hampers integration. Being undocumented makes them “illegal” and so they almost only find work in unstable, low-paid jobs and have no access to public services, such as healthcare and education.

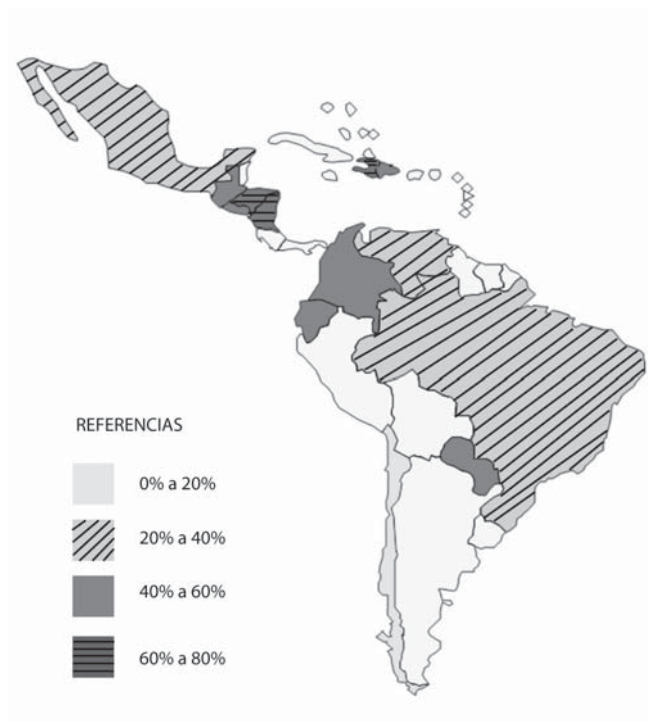
The economic dimension of the issue is another of the adverse conditions facing migrants as seen by the sending of money to family members living in their country of origin.

Poverty and destitution

Latin America has the highest **poverty** rates: 20.3% of the total population is poor and 12.9% is destitute, affecting thousands and thousands of children, which rises when taking into account “the face of child poverty” that shows that the majority of those living in poverty are children.

The percentages given above correspond to the average of the countries in the region but in **Honduras, Nicaragua and Haiti** over 50% of the population currently lives 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 given as being the only reasons.



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

In the last few decades, most Latin American countries have suffered under dictatorships, which lasted for different periods of time, and in the 1990s neoliberal governments implemented economic policies that exponentially increased the levels of poverty and destitution, widening the gap between the rich and the poor, which has a direct impact on children.

Therefore, although the relationship between poverty and the lack of parental care is not linear, it is clear that poor families are the most at risk of breaking down as a result of having to fight to survive and the lack of respect for their human, social, cultural and political rights.



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

Unfortunately, Latin America lacks reliable data and information on this issue, which would help evaluate the situation, prepare social policies, follow up on and evaluate them.

Despite this dearth, the systematised studies available only touch on the tip of the iceberg of the huge number of children without parental care.

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.

On the other hand, as will be seen further on, many children do not fall within either of the types of care described above: children living on the streets or child heads of household.

Although the data does not give a true picture of the number of children without parental care, what information is 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 children) do not live with their parents.
- » **Mexico** has reported a total number of 412,456 children without parental care (1.09% of the overall child population), although this figure may be higher as the UN Committee on the Rights of the Child has commented on the fact that the Mexican government lacks 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 below the age of 15 living in urban areas do not live with a parent; 483,279 (25%) only live 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 nor 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 where their mother works – of these 11,000, 1,300 are aged between 0 and 6.
- » The panorama 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.

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*

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 are often discriminated against are more likely to be found in institutions, such as the Afro-Brazilians.

- » Most children without parental care in **Colombia fall within the 10 – 14 age group**, which represents 11.2% of the overall child population. Children aged between 5 and 9 without parental care represent 8.2% of the child population, followed by those aged between 2 and 4 with 5.2% and, finally, 1.6% of children without parental care are below the age of 2. With respect to their socioeconomic status, 9.8% 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% of those aged between 5 and 12 and finally 10.36% between the ages of 0 and 4.
- » A study done 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.

Abuse of alternative care for children without parental care

As already said, children can be placed in some kind of formal alternative care, which may be one of the many kinds of institutions or family-based care.

Now, however, as the examples highlighted show, there are times when alternative care is not implemented correctly, meaning when it is not in the best interest of the child or not all efforts have been made to keep the child with their biological family, as established in the procedures detailed in

the Convention on the Rights of the Child and in the recently passed *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 programmes, and separate them from their biological family without first trying to prevent separation and counsel the parents on to how to be responsible and not blame or make the child the victim for bad behaviour, laziness, poverty, family problems, running away, etc. The experts also add that institutionalising a child is often a first resort because there is a lack of programmes that work on preventing risk factors, supporting families and temporary care programmes whilst the case is investigated and the decision taken by a competent authority.
- » In **Nicaragua**, most children who have been institutionalised do have a family and still have links with them and so their right to live in a family and a community is being abused. There are several reasons why children are institutionalised: their mothers work long hours and cannot be at home to take care of them or the mothers have migrated in search of work or have decided that their children should live in an institution as it provides easier access to school, and others. What all of the above have in common is that the parents lack sufficient financial resources 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 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** signal 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 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 for institutionalisation followed by the Family, Adolescence and Child Ministry (MIFAN, for its acronym in Spanish) should lead to temporary institutionalisation but the children often reach adulthood in centres because there are no follow-up procedures in place or followed. Children, the majority of whom do have families, staying for prolonged periods of time in centres has not been studied and alternatives to institutionalisation have not been looked into.

INADEQUATE USE OF ALTERNATIVE CARE

Measures are indefinite due to a lack of follow-up procedures and processes to reunite the children with their families.

Decisions are made without following the correct legal procedures which violated children's right to be heard, and other rights.

In practice the different types of alternative care do not fall within a rights-based perspective but rather take a paternalistic approach.

Institutions are often located far from the children's family and community.

The reasons why children are institutionalised are often unlawful: poverty and orphanhood, among the most notorious.

Measures that prevent separation have not been adopted (support for the biological family).

Number of children in institutions in Latin America by country.



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).

Institutionalised children

» UNICEF estimates that 8 million children are institutionalised around the world (Pinheiro, P. S., *World Report on Violence against Children*, New York, UNICEF, 2006).

Thousands of children in Latin America make up this total. The issue of institutionalisation takes on particular relevance as it is the main response of the state and civil society organisations to children that need to be taken away from their families.

The types of institutions are varied: from those that recreate a family home by only having a small number of children in each to the “macro institutions” where hundreds of children live. Probably the worst of all is the “crèche”, still found in the region, where babies stay despite 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 improve institutions, hundreds still remain.

Research shows that many children in institutions have a father and/or mother who do not have sufficient resources to take care of their children. Society also plays a large hand in not taking on the responsibility for these children: a lack of support from public policies and the blind eye turned by society that sees children being separated from their parents and placed unnecessarily in institutions as something “natural”.

The children who are placed in institutions in Latin American countries all share some common characteristics.

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

» In **Haiti**, 187,413 children, 4% of the total child population, are in institutions, and are mainly male (69%) while the remaining 31% are female.⁷

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

» 72% of the children institutionalised in **Mexico live in non-governmental institutions that have cooperation agreements with the national and municipal authorities charged with child welfare**. Of the total number of children in care, 58% is female and 42% male, 23% are aged between 0 and 6 and 77% are between 7 and 17. Only 1.1% of institutionalised children have some kind of handicap.

» 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 and have family ties are having their right to live in a family and community abused. However, the reality is that the families 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 done in **Paraguay in 2006** states that the main reasons why children enter into an institution are because they are abandoned by their parents (15%), they are orphaned (10%), extreme poverty (10%), homelessness (6%) and domestic abuse (7%). A qualitative study done in 2009 by the Ministry for Children and the NGO “Corazones por la infancia” was done on a sample of 807 children in 16 institutions and found that 18% was below the age of 7. Of this 18%, 23% did not have a birth certificate and only 13% knew their biological families. 24% were up for adoption and work on re-establishing ties with the biological family should have been started for 58%.

→ *The transition towards deinstitutionalisation*

It should be pointed out that despite there still being much 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, some examples of which can be seen below:

» **Chile** is rolling out policies that promote deinstitutionalisation and stop children being separated from their families. In 1990 62% of children attended to by the National Children’s Service were in institutions, whereas the number

had fallen to 26.3% in 2005.

- » **Brazil** has instated its “National Plan for the right to live in a family and community”, and provides guidelines for public policies to support biological families.
- » **Paraguay** has closed its state homes for babies and opted for family-based care and easing up adoption paperwork or reinserting children below the age of 3 with their biological families.
- » **Uruguay and Brazil** have modified their adoption laws. These changes include the obligation 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 an in-depth study into the child’s situation. Brazil has also set up a registration system of the children in institutions who can be adopted and people seeking to adopt.

Family-based programmes

Family-based programmes prepared by public institutions or civil society organisations ensure that children who are removed or separated from their families can be taken in by another family for as long as is necessary.

Family-based care is a form of formal alternative care where children are placed by a court or similar administrative body. In Latin America informal family-based 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 a state organism.

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

based approach. This model does not exclude the biological family but rather works with them both by fostering ties to help the child overcome problems and maintain their cultural identity and history, always bearing in mind the child’s opinion.

These new programmes go beyond the concept of “substitute families” previously developed in some countries, where the biological family was ignored and the children stayed for years in the substitute family.

Given this context we have tried to get an idea of the number of children in family-based 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 7 being protected by the state, 14,000 remain within the community, with their biological families or community.
- » **Honduras:** there is a state-backed family-based care programme that depends on the Honduran Institute of Children and Families (IHNFA, for its acronym in Spanish) and is called the “Solidarity for Families Sub Programme”. It works in 6 cities but cover is low.
- » **The Dominican Republic:** in 2007, a total of 457,081 (14.8%) children below the age of 15 were reported to be cared for adults other than their parents. These children fall within the category of “informal family-based care” or “formal care”.
- » **In Chile during the first quarter of 2010 the National Minor Service’s (SENAME, for its acronym in Spanish) family-based care programme, implemented by NGOs registered** 3,194 children in family-based 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, for its acronym in Spanish) reported that, since implementing the Substitute Family programme, it has guaranteed 323 children without parental care the right to live in a family. It establishes that the “substitute family” should work together with those in charge with the programme to strengthen the children’s ties

with their relatives. It used to be that family-based care meant that many children stayed for an indefinite period with a substitute family with no support programme working with the biological family, which renders the concept, nature and reach of this measure meaningless as well as making it easier for adoptions to be done without following the correct procedures.

- » **Uruguay:** 1,331 children are in family-based care programmes under the Alternative Family Unit. 1,189 children are and 2,084 in non-governmental institutions. The care programme is trying to take a more rights-based approach as it adapts the old substitute family programme.
- » **Peru:** the care programme being jointly run by the government (INABIF, for its acronym in Spanish) 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 9 to be reunited with their biological families. In 2 years the team held 25 meetings in the community and appeared 24 times in the media to publicise the programme and search for new families.

→ Children in SOS Children's Villages

The SOS Children's Villages model recreates the family setting in small homes. The SOS Mothers are professionally trained. SOS's presence in all Latin American countries is significant, especially in 5 countries. The examples taken from the SOS data bank show the children's profile, how widespread the Villages are in the countries and, in the case of Venezuela, the families that benefit from the organisation's family strengthening programme.

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 been working since the Second World War and, like other organisations, is constantly updating its practices. Its ways of working with families of origin and communities are particularly innovative.

- » **Mexico:** SOS Children's Villages is home to 659 children; 21% is between 0 and 6 years of age and 79% is between 7 and 17.
- » **Guatemala:** 143 children in San Cristóbal, Retalhuleu, Quetzaltenango, Jocotán, Chiquimula and San Jerónimo B.V.
- » **Colombia:** SOS Children's Villages works in Bogotá, Floridablanca, Ibagué, Rionegro and Cali and is home to 608 children. Most are adolescents (54%), with 36% between 6 and 12, 5% 0 to 6 and 5% are young people. 81% lived in urban areas and the remaining 19% in rural areas. Of the 608 children, 23 are Afro-Colombian and 8 indigenous, 55% has between 2 and 4 siblings, 16% belongs to large families with over 5 children and 15% has just one sibling. 18% of the children are up for adoption.
- » **Honduras:** 781 children between the ages of 2 and 18 live SOS Children's Villages. Most (46.27%) are between 8 and 13 years of age, 41.04% is 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.

"Informal" family-based care

When the answer lies within the community itself. Protective factors

One factor that reduces the risk of children being abandoned is the culture. Parents abandoning children is almost unheard of in some cultures, usually where the children are not directly cared for by the parents but rather the extended family. This is often the case of Afro-Caribbean or indigenous communities.

Although being orphaned or having parents incapable of taking responsibility for a child are usually the reasons behind 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 children can form new ties and avoid entering the protection system in place in every country.

The following are mechanisms to minimise risk: Resources provided by the community itself to buffer risks that children face and often consist of actions that protect and care for children through extended family or community networks.

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

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 being exploited in different ways. These children often have a home but have left in search of ways to survive and frequently do not know how to return home. However, many children do not wish to return home because of the family situation, often defined as violent, or cannot return because they are prisoners of exploitation networks, including sexual exploitation networks.

Latin American experts signal 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 the other, have become addicted and so have been thrown out of their homes and have no other option other than to live on the streets.

Children who live on the streets are possibly those whose rights are most often violated, which is a blight on Latin American society and is the result of a lack of a sense of joint responsibility shared between the state and society in general where each side has its individual portion of responsibility.

The governments and NGOs have set up specific programmes to ensure the minimum standards for 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% was boys and 36.6% girls. The majority (70%) was between 12 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 reports 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 have links with their families; 43% has 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 5 organisations registered with the Honduran Institute of Children and Families (IHNFA, for its acronym in Spanish) who attend to children living on the street: 4 in the Centro Oriente region (mainly in Tegucigalpa) and a home in San Pedro Sula.
- » A recent study found that in **Mexico the number of children living on the streets was between 94,000 and 114,000** in the country's main cities, among which the metropolitan areas of Mexico City, Guadalajara, Monterrey, Tijuana and Ciudad Juárez stand out. Furthermore, according to the Second Report on the 100 cities, the main risk factor that results in children running away from home and staying on the streets for long hours, or even days, is abuse.
- » In **Venezuela**, official figures from the National Institute of Statistics (INE, for its acronym in Spanish) reported that in 1994, approximately 5,000 children lived on the streets, and 9,000 in 1998. The latest official figures report 900 children living on the streets, of whom 53.9% is street children and 41.1% homeless street children (the national report defines this category as "children without parents or carers"). The three main reasons given for children being on the streets are economic problems, abuse and drugs.
- » In **Paraguay**, according to the UNICEF data base from 2006 one of the main reasons given

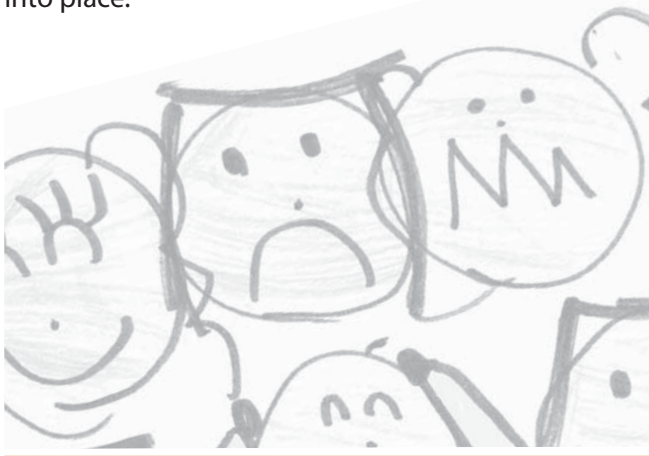
for children entering institutions is life on the streets, and represents 11% of all entries into institutions.

Child heads of households

- » **Ecuador:** 53% (261,318) of children lives with their grandparents, 16% (77,355) with other relatives and 6% (27,447) with siblings. 2.3% (11,435) defines themselves as heads of household of whom 65.29% (7,466) is male and 34.71% (3,969) female.
- » **Colombia:** 44,595 adolescents have been identified as heads of households; the majority (64%) is between 16 and 17 years old, but there is also a significant number between the ages of 14 and 15 (31%), and an unbelievable 5% between 12 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 phenomena is a consequence of family problems where the children end up running away or are thrown out of their homes (for different, complex reasons, generally linked to extreme economic difficulty or abuse), or when a child is orphaned. Often the older or teenage children take charge of the home.

Global discussions of this issue, within the frame of the *UN Guidelines for the alternative care of children*, is working on providing support for these homes through public policies putting support programmes into place.



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

Child Rights often Violated

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

→ *Right to live in a family and a community*

In all Latin American countries there are children whose right to live in a family and community is violated. Undoubtedly this is a fundamental right as living in a family should also lead to other rights being fulfilled, such as education, food, clothing, developing independence, and others, whereas, as already seen, not living in the family is a consequence of being extremely vulnerable.

The erroneous assumption that “it is better for children to live in an institution than in a family that abuses them” is usually the argument used to close the debate. Much needs to be analysed and done to do away with the dilemmas facing those working in the institutions that supposedly protect children. Often children are taken into care because there are no other options available, but this is not the answer for anyone involved.

The diagnosis done for this study shows the lack of alternatives that would prevent children being separated from their families by counselling and strengthening the families as being responsible for caring for their children. Institutionalisation is the overriding response to what to do when children lose parental care seen from the number of institutions and children living in them compared to other options.

This is a hurdle to be overcome when designing public policies that fulfil children's right to live in a family and to avoid the current scenario where many Latin American children's rights are being violated.

- » **Guatemala:** experts believe that child rights are violated because of poverty and extreme poverty, the lack of opportunities for parents to find work and earn enough to be able to fulfil their duties, the lack of good parenting programmes and programmes to prevent or treat addictions, the lack of family planning.
- » **Brazil:** according to the Brazilian Ministry of Development's Information on Children System, of the 839,598 reports of rights being violated between January 1999 and June 2008, 48.1% corresponded to the right to live in a family and community. Some caregivers recognise that they face the following dilemma: sometimes the levels of domestic violence are such that it is preferable for the children to live in an institution.
- » A **Chilean** lawyer giving his opinion said, "... children growing up without a family is going to have 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 the families guarantee their children's rights (I'm talking about this from my point of view as a lawyer, not as a psychologist) we're going to see more violations of their rights down the road. We're going to have adults who are not integrated or 'whole' enough for them to fully relate to or function in their environment. We need to work at and not sit around worrying about child rights being recognised and guaranteed..."
- » A child from **Colombia** says, "Family Welfare is a place where they put children from the streets; I was in a home with my brother for 3 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."

→ Right to Non-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 the community in general.

Many prejudices surround the violation of this right and have an influence on how 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, as seen through children suffering from a deep sense of isolation.

The report from Mexico provides a good summary of what is happening with respect to the right to non-discrimination affecting children in Latin America:

- Street or institutionalised children are treated unequally and are stigmatised. Education, health, recreation, culture and participation are systematically denied to these children.
- Both state and non-governmental institutions constantly display an attitude of paternalism towards the children in their care.
- Children who are discriminated against are seen as something to be cared for without the right to be heard or participate.
- Adoption procedures contain all manner of discrimination: invalid because of handicap, physical defects, indigenous features, or simply for being older than 3 years of age.

→ Right to an Identity

The right to an identity is violated in many children without a family. This takes on different dimensions: preservation of history, respect for ethnic background, preservation of culture, having identification documents.

Centres that house children are often located far from where they were born. Being taken into care often implies moving schools, changing friends, neighbourhood and being separated from family and community. This makes it difficult to rebuild family ties, which leads to children remaining in institutions and losing their place in the family and the community.

When children are not properly registered when

they enter into the care system, especially when they do not have identification documents, this right is completely violated.

- » Experts in **Colombia** say that children cannot find out where they are from, have no ties, are isolated and are denied the right to education, access to their culture and recognition of where they are from.
- » Specialists in **Honduras** warn against the imposition in certain centres or homes of cultural and/or religious patterns that are different from what the children practised in their families. This is because of the large number of religious institutions that run the homes or centres in Honduras. The cultural “gap” is enormous and even more serious is the lack of interest shown in how important the right to a cultural identity is as a fundamental human right.

→ Right to Freedom

Rule 11.b of the *Beijing Rules*, adopted by the United Nations to provide guidance for the protection of child rights, defines that when children are detained in establishments from where they cannot leave as 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, being on the streets and have entered an institution against their will, because they have no other place to go, their family ties have broken down and they lack the resources and independence that would enable them to live alone.

- » In **El Salvador**, the specialists point out that the country has set a public policy in place that focuses more on abandonment than integrated protection measures and so thousands of children are locked up.
- » One child from a small private institution 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, for its acronym in Spanish) you can’t go out and meet other people.*”

→ Right to Participation

The general conclusion drawn by the experts in the 13 countries studied in Latin America is that children are not listened to. Spaces or channels for citizen participation for 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 situation.

The situation is the same in the institutions where they live. Sometimes they are given opportunities to be heard but later their opinions are not taken into account. This means that they do not see themselves as rights holders with their own opinions, which often leads to them not reporting situations where their rights are violated because of fear, a lack of knowledge of their rights, low self-esteem or insecurity.

- » According to specialists in **Colombia**: “*If we just look at the theme of participation, they (the children) are not taken into account because the power structure set up in the institutions does not give them a space where 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, “*Those children without parental care are particularly vulnerable to not being able to participate; the institutions and courts systematically make the decisions about their future.*”

→ 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 continually and access healthcare. For example, there are times when children are denied healthcare if they are not accompanied by their biological parents; other relatives, such as uncles, aunts, grandparents, are not seen as being responsible for the child.

Most social benefits do not include children who are

not related to the benefit holder. Only sometimes is it possible to change this situation by the adult becoming the legal guardian of the child, which means going through lengthy judicial processes instead of there being more 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 there are parents at home. If one or both parents have died school absenteeism reaches up to 27% or 20% respectively, which is double the percentage seen when both parents are at home (11.4%). Other reasons for absenteeism are, firstly, lack of economic resources and the need for the children to work. When both parents have died, these problems prevent 95% of children from attending school.
- » Health: statistics from **Colombia** show that not having parents is a determining factor linked to risk to the health of children as they have restricted access to healthcare. Two 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?

Responsibility of the state

Governments are the main duty bearers responsible for protecting and guaranteeing that the rights of all children are fulfilled.

There are three main elements to fulfilling this responsibility: strengthen society and the families so that they respect and ensure that child rights are fulfilled; oversee that all agencies and institutions 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 concerning children but all countries should decentralise services for children and families: local authorities should actively work to protect all children, especially the most vulnerable.

The state can be seen to be responsible either through its actions or by not complying with its duties: research done in the different countries has noted this often contradictory reality where the state shows itself to be innovative by coming up with effective protective actions along with others that violate children's rights.

The Executive Branch in each country should design the public policies necessary for ensuring that rights are fulfilled, and so 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 budget needed for developing

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

All Branches should ensure enforcement mechanisms to be used by children to protect themselves when their rights are under threat or being violated.

Important progress has been made in the region not only recognising children as rights holders 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.

Some testimonials cited in the studies prove this:

- » According to a civil servant in **Colombia**, *“The Colombian Institute for Family Welfare is promoting working with the family, but in practice the programmes are just specific protection measures. The question still remains as to what degree we can have a positive affect on the family but this is being rolled out nationwide.”*
- » In **the Dominican Republic** the fact that those who are directly responsible for caring for children lack training, supervision and monitoring is often reported.
- » A Colombian child reported, *“I don’t know why Family Welfare takes the children, there was a woman who had 8 kids, the police arrived with Family Welfare, asked her some questions and took the children away.”*

Neoliberal practices stepped up in the 1990s throughout the region often meant that child protection was privatised by handing the responsibility over to NGOs. On the one hand the state gave up its role of protector and on the other outsourcing policies were put into place whereby the states channelled its meagre resources to the NGOs to be responsible for making care arrangements directly.

This has led to there being a large number of institutions and homes without any control or guidelines provided by the state. However, those that did follow the state’s guidelines found themselves

taking on a 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, in the NGOs and the general public, which makes it difficult to set up spaces where children can exercise their rights.

There are many obstacles facing the state: lack of ability to call together the public and have them participate in taking responsibility for their role as joint duty bearers; not enough budget allocated to children’s affairs; difficulties in setting up and maintaining independent institutions that can be controlled.

To sum up, a lack of ability to carry through the policy.

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

- » *“Article 54 of the Constitution establishes that the family, society and the state is obliged to guarantee the harmonious and integrated development of children as well as exercising their rights fully” and 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 as regards 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.”*

Responsibility of civil society: Non-Governmental Organisations

By analysing the private and government institutions in the Latin American countries it can be inferred that the main hurdles to guaranteeing rights are still in place because of a “paternalistic” culture. This means that the obstacles to implementing a rights promotion and protection policy are not only caused by difficulties, oversights or negative actions of governments when implementing policies under a new paradigm, but also because civil society,

individuals and the institutions still relate to each other and to the children under an authoritarian system, without dialogue and seeing children more as “property” than as independent developing human beings. Thus, the old practices remain entrenched and are the norm in Latin American societies.

» When defining the role of NGOs, an expert from **Mexico** highlights one of civil society’s roles: *“Monitor that the state is fulfilling children’s rights and, when necessary, report cases of abuse in institutions.”*

The NGOs take the lead in implementing policies that safeguard children’s rights, taking on the dual responsibility as part of civil society and acting on behalf of the state, or even defining public policy for the population below the age of 18.

Now it seems that the organisations are part of a society represented by groups still taking a paternalistic approach that often operate with criteria that do not always follow the rights-based approach.

Responsibility of the families

» It has been established in **Honduras** that *“child protection is the responsibility of society as a whole, but direct care falls to the parents or their legal representatives, and where not available, the state”* (Article 83, Children’s Code).

» Specialists in **El Salvador** recognise that irresponsible parenting is rife, beyond the reasons for this phenomenon.

» In **Guatemala** it has been recognised that a “school for parents” should be developed to prepare parents and monitor them.

As discussed above, it is necessary to understand the role of each actor, the family, society and the state, how they interact with each other and as joint duty bearers.

It is impossible to talk of the responsibility of parents without understanding the government’s responsibility beforehand, although it is necessary to understand that parents have direct specific responsibilities as regards caring for their children. Therefore, it becomes relevant to identify the specific

problems facing children who have lost or are at risk of losing parental care and, as already seen, are even more threatened with rights violations than the other children in their group or community who enjoy parental care. Children have the right to live with their family, extended family or community and this right should be guaranteed by all of the adults in these social groups. Therefore, for example, one of the causes identified as a risk for children losing parental care is “irresponsible parenthood”. This is the case in **El Salvador where parental neglect is cited as one of the causes of children not being cared for and so the parents are directly blamed for infringing their children’s right to have and grow up in a family, where they are cared for, disciplined and given affection, as the basic conditions for their integrated 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 where 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 that, as a democratic and participative space, monitors and prepares adults for their role showing that there is a great difference between having children and bringing them up.

Responsibility of international organisations

The responsibility for children without parental care lies also with international agencies, such as ILO-IPEC, UNICEF, UNDP, the United Nations High Commissioner for Human Rights, the Inter-American Court of Human Rights.

Each one, with its specific range of responsibilities, 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 are actually a hindrance to 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 some type of penalty is proscribed for the government in question.

Responsibility of donors

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

Often the requirements for raising funds dictate what methods are 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, showing images of “children alone”, without a family, for whom more homes are needed, than to find funds for projects geared towards promoting the independence or strengthening of biological families.

Donors are still moved by a sense of charity and the isolation from society of those who have problems, rather than helping those who belong to vulnerable groups, such as children without parental care and adults who cannot assume their responsibilities for their family and community, 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 becomes more disseminated and thought over by its readers, new conclusions and recommendations will emerge to be added to those included here made by the experts who took part in validating the full Latin American report.

Information for working in prevention and restoring the right to a family

One of the main conclusions is the lack of qualitative and quantitative information on key aspects of the issue. Therefore, we hope that this paper contributes to the store of knowledge of the issue and that the gaps identified be used for future topics of research.

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 and the international cooperation agencies to allocate funding to generate independent knowledge in this area to identify what areas need to be worked on integrally to reinstate child rights.

→ *Protective factors*

Because of how important it is for children to enjoy their right to live in a family and community, developing what we call “protective factors” should be explored and promoted.

Protective factors may be: **individual**, recently being studied in the revitalised field of resilience; **family-based**, dealt with in the field of child development and paediatrics, measures to buffer abuse and neglect; and **socio/cultural**.

It is important to bear these factors in mind when working with families every time that it is necessary

to support developing families' capacities to take responsibility for raising and protecting their children. The necessary human and professional resources must be available for this work to yield good results. Protective factors outlined in this paper, especially cultural practices, are listed below.

→ *For children from native peoples groups*

This aspect needs to be studied more in depth to recover community childcare traditions practiced 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 seen as a protective factor. However, the challenge faced in the region of strengthening these community-based experiences should be pointed out and social policy mechanisms drawn up to monitor and oversee these practices to ensure that rights are not violated in the same. Erica Brasil points out that *"in Brazil, the practices of circulating children already described cannot always be presented as factors that prevent losing or the risk of losing parental care as sometimes they are 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), physical, psychological or sexual abuse, etc."* Therefore the majority of these informal practices can be described as protective factors but also may cover up risk factors, which needs to be controlled.

Rosa María Ortiz also alerts us to the need to identify **"harmful cultural practices", defined as 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.

Expanding knowledge on cultural practices in different ethnic groups living in our region and including them as a variable to take into account when identifying risk factors for losing family care as well as protective factors is pending.

→ *Problems surrounding the loss of parental care*

We understand that the main problems facing the region's countries are **poverty and inequality** and are indisputable causes of children's rights being violated, among which are the right to a family and, as an integral part, the right to enjoy parental care.

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

"Poverty", when given as a cause, can be linked to other individual or family causes, such as diseases, attributed to certain vulnerable groups (migrants, children from native peoples), etc. Although it is impossible to do an analysis after the fact, 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 look after and raise them? In other words: How many cases of "abandonment" or "neglect" are initially caused by poor socioeconomic conditions and a lack of support networks?

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

If we delve into the root causes, **migration** was identified by the research as one of the situations that can lead to the loss of parental care as, clearly, 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 is still not adequately covered in the movement of "unaccompanied children".

The contribution made by Christina Baglietto and Cécile Maurin (ISS) should be highlighted here: *"Among the additional factors that may contribute to increasing the risk of family separation should be mentioned a certain culture of **victimising the family** (paternalism, support for specific matters but not ongoing support for independence and growth), the taboo in several countries in the region and fear of accepting the need to look for help, as well as family separation resulting from divorce, which is not directly linked to 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.”

→ *For children, their contexts and fulfilling their rights.*

It is important to link the **countries’ main problems** to the main causes of child rights violations and, particularly, to the aim of this study: **children deprived of or at risk of losing parental care.**

Therefore, looking for solutions for the problems that cause child rights to be violated in Latin America, among which is the loss of parental care, should take place in the field of the **public social policies** being implemented by each government to resolve the scourge of hunger and inequality that characterise the region’s countries.

Within this point it is important to go back to what has already been said about abandonment as relates to the fact that the main protective factor would be **to redefine the family**, understood as 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 to protect children from losing parental care should have a strong focus on strengthening the family nuclei that could protect them.

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

→ *For children in institutions*

One concern that came up in the testimonials from the children, experts and caregivers in the national reports is the **violation of the fundamental rights of institutionalised children.**

A warning light should go on about what this Latin American paper describes as regards which rights are being violated starting 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

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.

Institutionalised children are described as being affected by: overwhelming feelings of loneliness; feeling of being misunderstood; isolation from society in general; lack of roots; uncertainty about the future because of 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 and is just “the tip of the iceberg”.

→ *Orphans*

One particularly pressing issue is the enormous number of **orphans in institutions**. How is it possible that there are children in all kind of institutions if they have lost their parents definitely? Shouldn’t these children be adopted into a permanent family?

It is understood that within this group there are some children who, for different 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 and are then 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 already cited), it states that they suffer from “psychological effects of having lost their parents” and “low self-esteem”.

There is a pressing need to implement **adoption and family-based care as a measure, on a case by case basis**, and maximise efforts to include the highest number possible of these children, and consider family-based care for small children and group living arrangements as a support mechanism for adolescents.

→ *For 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

parental control provided by nuclear families, mainly in the first years of life, we believe that this problem needs to be tackled specifically by government institutions and civil society as they have the direct responsibility for caring for children and guaranteeing all of their rights.

Latin American countries should recognise that this is a specific issue that has a huge impact on the region's countries and plan public policies for family strengthening, which includes recognising single parent families, extended families and the different ways that these groups use to survive. Governments need to understand that it is essential to prevent more children from losing parental care and that those who have already lost it need special care, based on remaining or rejoining their original community.

→ *Threats of setbacks and interim progress*

It is important to ensure that progress made in the region on promoting the right to living in a family and community does not suffer **setbacks that lead to implementing paternalistic policies**. This is the case, for example, of the "City of Children" in Guatemala, a building recently constructed to house hundreds of children without parental care.

Another setback has been the recent debate about the "Preventorio Pérez Aranibar", a home in the city of Lima, Peru that 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 home⁹.

Progress being made in **legislation** in the region has been important not only in recognising children as rights holders but also in recognising the importance of biological families. Nevertheless, this progress has not been accompanied by plans, programmes and projects that put the legal concepts into practice. The main reasons for this situation may be an inability to take political decisions, limited budgets for this type of public policy and/or lack of technical capacity.

Decentralising programmes plays an important part in the benefits being **more accessible** and **therefore expanding** the system. It is therefore important to pay special attention to publicising the actions as often limited access to programmes is due to a lack of communication and the ensuing lack of knowledge of who could benefit from each programme (the families and the children).

→ *For international cooperation agencies*

There is a pressing need to do comparative studies at the Latin American level that analyse the different aspects linked to the risk of losing parental care. In such a large, diverse continent marked by profound inequalities, the complex task of research definitely requires both technical and financial support from the international cooperation, although we should stress the fact that Latin America must also contribute its own human and material resources.

As can be seen in the Latin American report already cited, it is not that there are no resources available, rather 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 need to be studied more in depth.

Finally, despite not being mentioned in the 13 reports that we have systematised, (the source of this Latin American paper), is the important role played by the **Independent Human Rights Organisations in each country**, for protecting child rights and promoting and monitoring how the Convention on the Rights of the Child is being adhered to, as established in General Observation N°2 of the UN Committee on the Rights of the Child.

Strengthening these independent agencies where they have already managed to be set up and setting them up where it has still not been possible to is, without a doubt, a great challenge in the region.

⁹ http://elcomercio.pe/noticia/444584/puericultorio-tiene-300-camasvacias-ley-le-impide-acoger-ninos-pobres_1 (16 March 2010)
<http://elcomercio.pe/noticia/444759/puericultorio-perez-aranibaratedera-al-maximo-su-capacidad-desde-proximo-lunes> (20 March 2010)

Glossary¹⁰

→ **Family-based care:** 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 however long is necessary. This may be a formal or informal arrangement (see **alternative care**).

→ **Alternative care:** Because 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. Therefore, alternative care may be a formal or informal arrangement where the child is cared for outside the parental home as the result of a decision made by a court or administrative authority or other duly accredited institution or at the request of the child, their parents or primary caregivers or as a result of a spontaneous decision taken by a caregiver when the parents are absent. This term includes informal living arrangements made for the child with other members of the family or a friend or acquaintance, the child being placed in a children's home or other institution (see **institution**), transit centres in emergency situations, other long or short-term residential facilities (including group homes or living arrangements where children live independently but still being supervised in some form or another). 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 a 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 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 cover children whose freedom has been taken away as a result of their being in conflict with the law which is dealt with by the United Nations Standard Minimum Rules for the Administration of Juvenile Justice and the Rules for the Protection of Juveniles Deprived of their Liberty. Neither does it cover cases where a child has been adopted (although it does apply to 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 not relating to parents being unable 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 forms: 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. But they can also be created by residential facilities.

→ **Adequate parental care:** where the child's basic physical, emotional, intellectual and social needs are met by their caregivers and the child can develop their full potential. Adequate parental care goes beyond the absence of abuse, abandonment or exploitation and implies that the child has enough resources and is sufficiently cared for to be able to develop healthily. This means, for example, that the child lives within a family, with a primary caregiver, 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 suffer abuse, exploitation or abandonment are considered to be victims of inadequate parental care.

→ **Family-based care:** where the child lives with a family other than their own. This term covers family-based care, child-headed homes and adoption. Care in a "small group home" would not fit this definition although often no difference is made between "family-based 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.

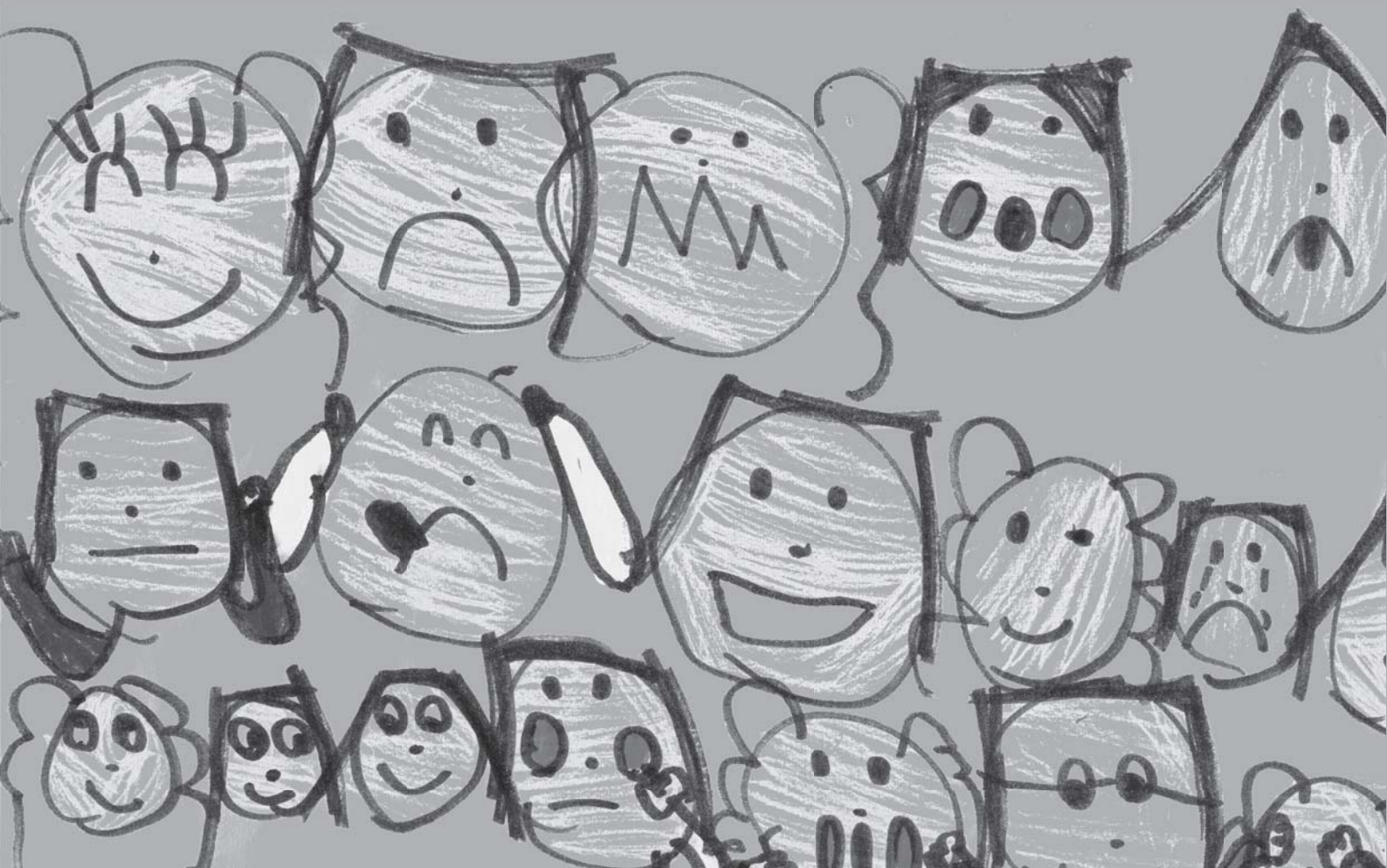
→ **Institutionalisation:** when a child lives in an institution.

→ **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 their parents, for whatever reason and in whatever circumstances. Children without parental care living outside the country of habitual residence or are victims of situations of emergency 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.

10 This glossary was prepared 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.)





RELAF

The Latin American Foster Care Network (Relaf) is an organization that works with the purpose of achieving the implementation of the Right to Community- and Family- based care. Its objective is to create and strengthen the network of regional actors with the purpose of contributing to processes of de-internment of children and adolescents, as well as promoting forms of family-based alternative care.

The specific model that is foster care. Though this practice a foster family takes responsibility for the care of children and adolescents (during 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 favor the development of the practice, Relaf carries out actions of advocacy, production of knowledge and information for organizations and governments, as well as technical assistance for the management and maintenance of related projects.

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



CHILDREN IN SOS CHILDREN'S VILLAGES

SOS Children's Villages is a non-governmental secular institution 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 caregivers, their families and communities so that they are capable of providing decent 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 a mother/aunt.

SOS Children's Villages also advocates for 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

