

EXECUTIVE SUMMARY: DIAGNOSTIC OF THE SYSTEM OF ALTERNATIVE CARE OF THE STATE OF CHILE

Flavio Cortés, Mariella Concha
Centro de Medición de la Universidad Católica de Chile, MIDE UC

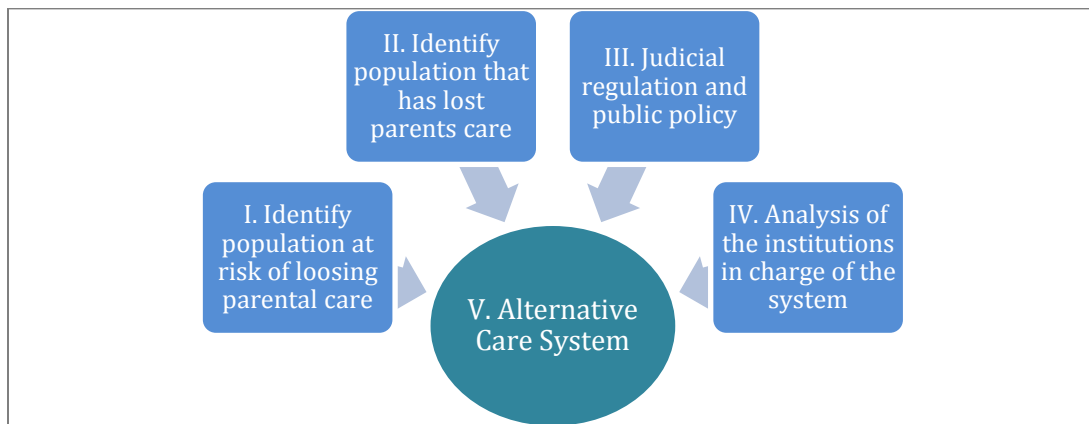
Aldeas SOS requested the Center of Measurement of the Catholic University of Chile (MIDE UC) to make a study that analyzed the current situation of the System of Alternative Care of the State of Chile that seeks to protect the rights of children and adolescents (henceforth CA). Specifically the study is focused on those that are at risk of losing parental care, considering the implementation of the United Nations' Guidelines at the national level, and through the prism of the regulatory framework and public policies of the Chilean State.

In order to achieve this, five dimensions were defined to investigate and realize a diagnosis. The first four dimensions constitute the framework of the System of Alternative Care: (I) identify the population of CA that are at risk of losing parental care, (II) identify the CA that have already lost parental, (III) the regulatory framework and associated public policies, and (IV) the institutions in charge of

designing programs and coordinating the System of Alternative Care in Chile. (V) The fifth dimension had the objective of providing an "insider's look" to the System of Alternative Care in order to receive opinions from the stakeholders of the various institutions that contribute to the system.

In particular we attempted to identify: the national population at risk of losing parental care through data collected by national statistics; describe the CA population that has lost parental care via the data supplied by the National Service of Minors (SENAME); give an account about the regulatory framework and policies of the National System of Integral Attention to the child or adolescent in Chilean society; and analyze the existence, articulation, and dynamic of the institutions, state plans, and programs directed towards CA that have lost parental care or that are risk of losing it. The four dimensions considered in this study are shown in the following figure.

Figure 1: Dimensions included in the diagnosis of the System of Alternative Care of the Chilean Government



I. Identification of children and adolescents at risk of losing parental care

To measure the population of the group that is at risk or that has already lost parental care a bibliographic inquiry in specialized literature was conducted to identify the factors associated with the aforementioned occurrence. In general there are warnings that such identification is difficult due to the multiplicity of factors that influence the existence of this occurrence. For the effect of this report the factors described are classified in four categories: social factors (poverty), social/cultural factors (such as domestic violence and addictions), political factors (like war conflicts or migrations), natural catastrophes (earthquakes, flooding, etc.). Since these are objective factors, they cannot by themselves explain the phenomenon through which a CA can lose parental care. In fact the loss of a caretaker happens because of a complex interaction between characteristics related to the disposition of the parents and situational factors that can trigger the decision of a parents or caretaker to abandon a CA, or neglect his or her care to the point that it violates the human rights of the CA.

From our point of view the concept of Parental Competence is necessary to explain the

situation of vulnerable CA that are at risk of losing parental care. Although this concept has been used in the context of judicial trials for custody of a CA, and in studies focused on the prevention of child abuse, the literature on losing parental care is curiously reduced to socioeconomic, political, and contextual factors, and does not consider dispositional factors of psychosocial characteristics.

In addition, when it was necessary to numerically characterize the CA that are at risk of losing parental, the statistical evidence provided by the Chilean State is fragmented and predominately features socioeconomic data. For this study, we used the CASEN survey for population estimates since it includes questions about variables that are related to the situation of CA vulnerability (education, jobs, income, health, among others). However, the survey excludes psychosocial factors and although there are other sources of information that provide information about this situation of vulnerability of CA, such as the consumption of substances, physical or psychological abuse, among others, the data does not exist concentrated in just one instrument. Therefore



we cannot perform population estimates on the basis of combining the various factors since this would provoke errors. The factors of vulnerability of the CASEN survey that we could analyze were: poverty¹, low-level of education², job status³, diseases (disability), and child labor.

1 Situation of poverty or indigence at home

2 Head of household doesn't know how to read or write, did not complete 8th grade, and the CA between 7 and 17 years of age does not attend an educational establishment

3 Head of household is jobless or inactive

In the analysis process we used a technique called Latent Class Analysis that has the objective of describing the relationship between variables from the survey and classifying different CA with similar characteristics into classes or groups. Thus we statistically generated three groups that presented different values in the various dimensions of vulnerability considered. At the national level the group identified as most vulnerable was estimated at

389.802 CA, which corresponds to 8.7% of the underage population. Of course, this doesn't mean that they are at risk of losing parental care; instead this data only allows us to show that over 300 thousand children and adolescents are in a situation of vulnerability. Therefore, and according to the knowledge accrued on this subject, they are more exposed to losing parental care and protection, than other CA that do not share this situation of risk.

Figure 2: Probability of presence of vulnerability variables in each group

	High Vulnerability	Medium Vulnerability	Low Vulnerability
Head of household (HH) doesn't know how to read/write	36,3%	0,0%	0,1%
HH has an 8 th grade education or lower	91,2%	23,4%	13,2%
HH doesn't attend an educational establishment	6,8%	2,8%	2,6%
HH unemployed but looking for a job	2,4%	4,5%	4,2%
HH is inactive	57,2%	10,3%	14,4%
CA looked for work or worked in the past week	6,7%	3,8%	3,3%
Indigence	11,7%	6,2%	4,9%
Poverty	25,8%	14,7%	17,0%
HH is handicapped	26,5%	3,5%	5,6%
HH is in bad health	16,0%	2,3%	3,7%
CA is handicapped	3,7%	1,8%	2,0%
Number in survey	9.158	26.414	31.031
% in survey	13,8%	39,7%	46,6%
Expanded Number	389.802	954.873	3.156.974
% in expanded population	8,7%	21,2%	70,1%

Considering the difficulties previously mentioned in estimating the population of children and adolescents that are vulnerable to losing parental protection, it is relevant to mention that this task would be greatly improved if we had data collection instruments that incorporate measurements of psychosocial

factors related to the competency of parents, as well as attitudes towards the protection, respect, and promotion of rights of the CA. These measurements should be associated with socioeconomic and sociodemographic factors, which means that it would have to be part of an integral section of an existing instrument

that is representative of the national population, and the unit of analysis of the data

As aforementioned, these types of measurements don't exist in our national statistics and have only been applied to specific social programs (e.g. Program Bridge of Ministry of Social Development). If they were included systematically in a national social measurement, it would allow us to measure with more reliability and validity the magnitude of the CA that are at risk of facing weakening or losing parental care. If a section of these characteristics were included in a consolidated survey, it would also allow us to estimate the association between socioeconomic and sociodemographic variables with situations of psychosocial risk, letting us identify population groups that are at risk and as well as their

should be the family unit where adults are in charge of the care and protection of minors.

geographical location. Therefore we would have available an instrument that would provide us with information to design public policies of care and prevention of our children and adolescents population. This would also allow us to focus policies and programs at the local level according to the potential requirements that the data suggests. A systematic inquiry of this type is obviously not an instrument for detection of specific cases, but it would permit the generation of indicators that would define a universal policy of risk prevention and promotion of the rights of CA. It would also allow for more focused programs to serve the CA in a situation of risk.

II. CA that have lost parental care in Chile

Defining the CA that have lost parental care in Chile and that are therefore in the System of Alternative Care is not an easy task. As it was mentioned in the previous section, there are multiple factors that indicate that a CA who is at risk of losing parental care, and many of the CA that already lost parental care, are in situations that are difficult to detect and monitor, such as those who live in the streets. On the other hand Chile doesn't have a global system of registry with all the statistics of all the CA that have entered an institution due to the loss of parental care. In that sense, the system of registry that centralizes most of the information of the CA in this condition is the National Service of Minors (SENAME), but the inclusion of cases into the registries depends on whether SENAME dispenses economic subsidies for the maintenance of the CA.

This means that the registries of SENAME give information about CA that have lost parental care and that are attended in the Centers of Direct Attention of SENAME or that are in the network of collaborating institutions. However, there is a requisite that SENAME only has a registry of CA that receive subsidies, leaving outside of the registries all other CA that are attended by institutions but that are not subsidized by SENAME. The figure below characterizes the population attended by SENAME and its network of collaborating institutions during the year 2012⁴.

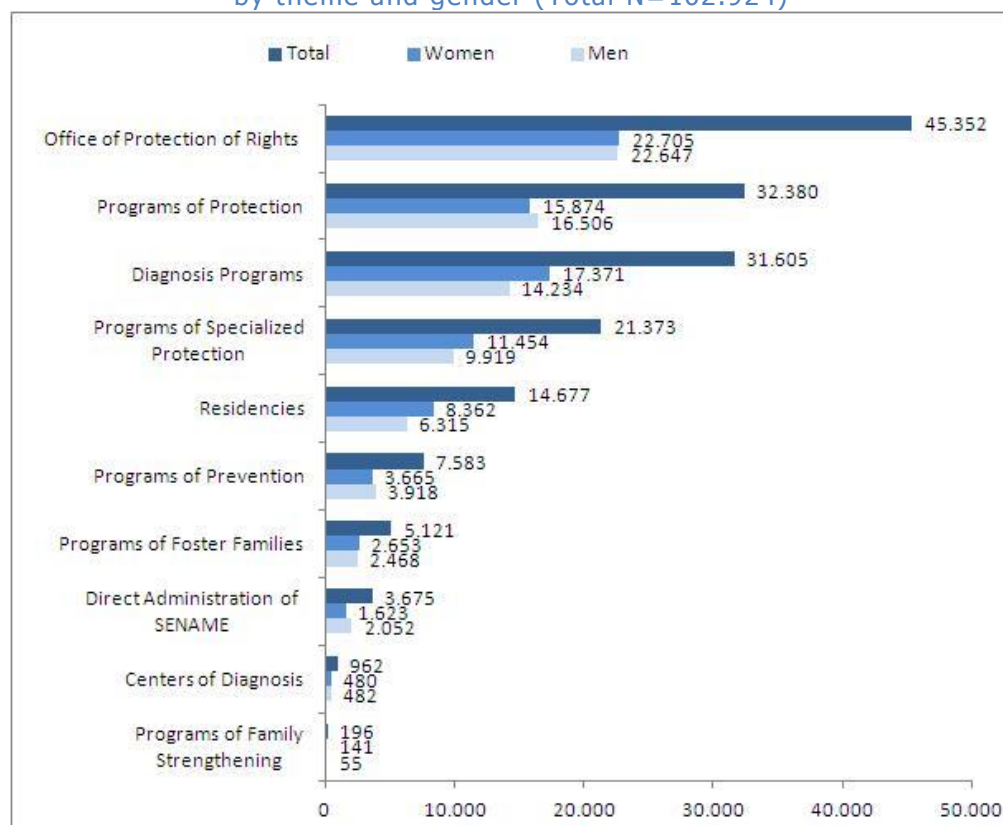
⁴ This chapter is based on the information included in the Annual Statistical Bulletin of Children and Teenagers Attended in the SENAME Network, 2012. This document was recovered from:



The administrative data of the Department of Rights' Protections (DEPRODE), a unit of SENAME, points out that during 2012 164.924 healthcare attentions were performed. This included outpatient programs, administration of Foster Homes, and Foster Families. Out of this total, 19.768 correspond to programs of

Residence, i.e. Foster Homes and Foster Families. Consequently it can be seen that there is much more care given in outpatient programs, which account for 143.126 of the attentions.

Figure 3: Number of attentions of the SENAME network in the year 2012 by theme and gender (Total N=162.924)



It is relevant to point out that the number of attentions doesn't coincide with the number of CA attended. This is because the same child can reenter the system and receive attention again. Therefore one should be careful when comparing these numbers with the total number of CA. As explained by Vivanco (2012) in "Señales", the biannual magazine of SENAME, the number of agreed seats, meaning the total number of open spots of Foster

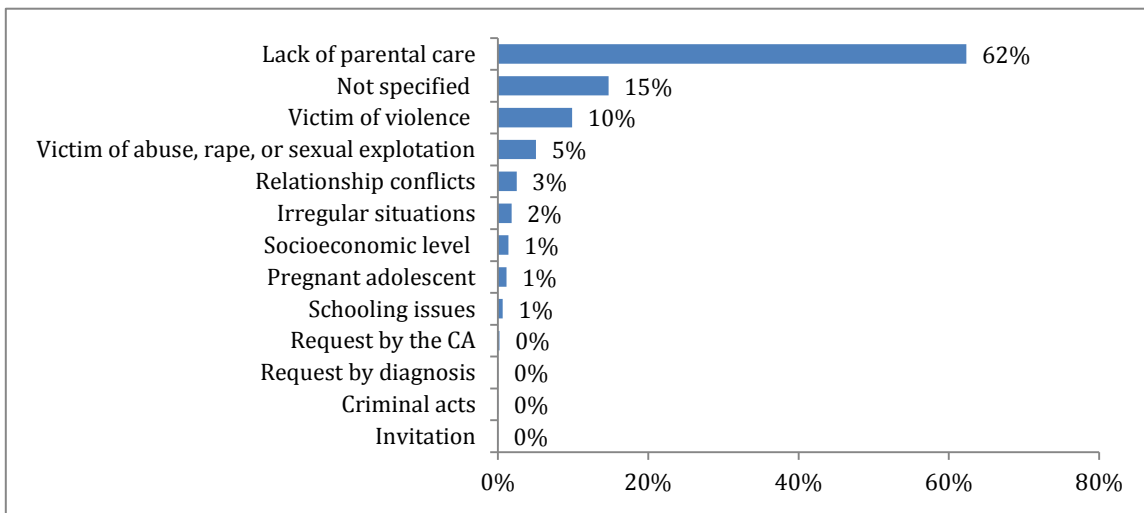
Homes for the year 2012 were 11.461, while Programs of Foster Families totaled 3.281, which in total meant a maximum simultaneous annual care coverage of 14.742 CA.

The principal reason of entry into the system of Foster Homes was a lack of parental care (62%). There were also a substantial percentage of cases that didn't specify the cause for entry (15%). Other cases mentioned spanned between 10% and 2% and



corresponded to violence; sexual abuse, rape, or sexual exploitation; relationship conflicts; and irregular situations. In additions, there were a few causes for entry with very low percentages of appearances, between 1% of 0% as it can be seen in the figure that follows.

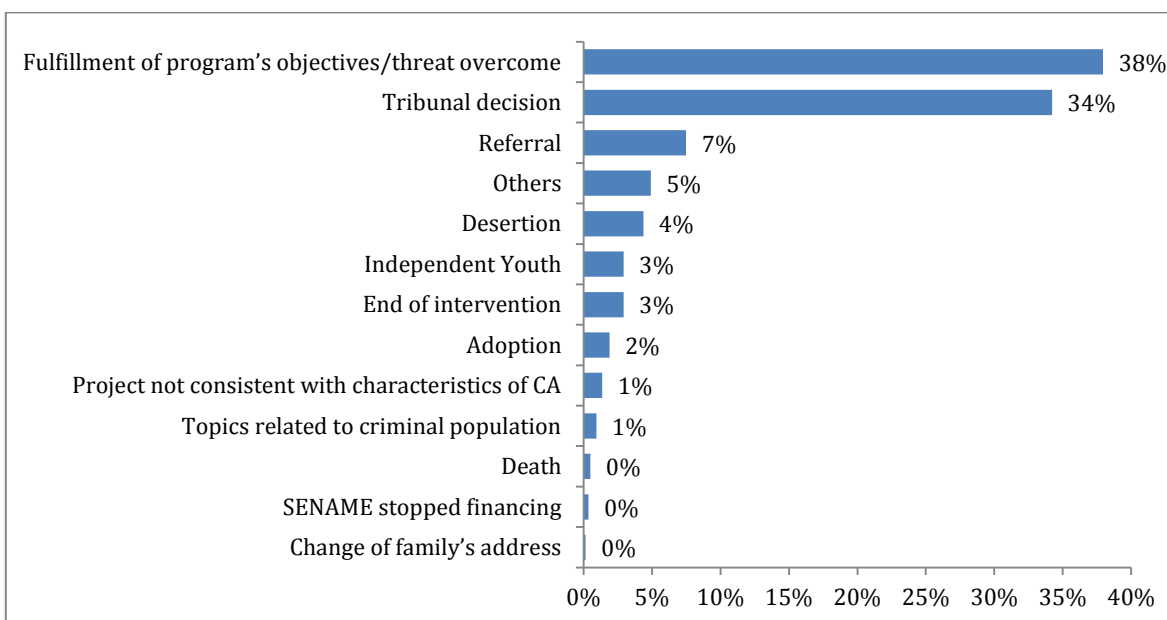
Figure 4: Reason for entry (%) of CA attended in the Residence system (Foster Home or Foster Family) 2012 (N=19.768)



On the other hand, there were 7.053 CA egresses from the Residential System of the SENAME network in 2012. The main reason for leaving the Residential System for CA was the fulfillment of the objectives of the program or overcoming the familial threat (38% of the cases). The decision of the Tribunal is also relevant for egress from the system, and the

second most cited reason at 34%. However when the Tribunal makes this decision it does not establish whether the intervention achieved the objectives of the program. It should also be noted the low percentage of adoption in this cluster, making up only 2% of the egresses from the Residential System.

Figure 5: Reason for egress (%) of CA attended in the Residential System (Foster Homes and foster Families) in 2012 (N=7.053)



III. Judicial regulation related with the rights of CA

In Chile, there is no judicial regulation that addresses in a unified, systematic, and comprehensive legal body the topics that are related to the rights and protections of children and adolescents. A comprehensive law aimed at protecting rights would not only recognize the basic rights protecting CA, but should also establish effective mechanisms to exercise, protect, and promote those rights. A law of this nature should also adapt the State's institutions in such a way that the rights of CA are protected comprehensively and imbued with the characteristics of human rights: inherent, universal, inalienable, inviolable, and imprescriptible. This shortcoming of the Chilean State is somewhat surprising since it signed the Convention on the Rights of a Child – along 57 countries – in 1990, and which went into effect on September 27th 1990. More than 20 years have passed since this event and the Chilean State, unlike other Latin-American nations, has

not coded into law or adapted its national legislation to the rights assigned to children and adolescents in this convention.

It should be noted that this absence doesn't mean that the Chilean government doesn't have various laws that protect specific rights of children and adolescents in Chile. In the realm of healthcare, the right that protects health is regulated in the Constitution in article 19, section 9, which imposes on the State the obligation of protecting the safe and equal access to the actions of promoting, protecting, and rehabilitation and health recovery of an individual, as well as coordinating and controlling the actions related to health. This was also specified afterwards in the AUGE Law, (law number 19.966 and proclaimed on August 25th, 2004) which established a Regime of Health Guarantees which states that all people "independent of their age, gender, education,

ethnicity, sexual preference, or income”, enjoy universal access to a healthcare attention that is adequate and opportune to confront situations of illness. In relation to CA, the AUGE Plan includes care for some pathologies associated with birth, premature care, diseases of recently born infants, as well as some specific pathologies, guaranteeing access to specific actions of promotion, protection and health recovery. Furthermore, in the realm of health there is a system of social protection called “Chile Grows with You” which attends the most vulnerable population during the period of early infancy (Law 20.379).

In terms of education, the Constitution protects access from the second level of preschool (i.e.

kindergarten) until high school. The educational system of Chile is essentially regulated by the General Law of Education (Law 20.370) and a law that created a system to ensure basic quality of preschool education middle school, and high school (Law 20.529), by establishing an Agency of Quality and the Superintendence of Education. In addition, and starting with growing awareness of the “bullying” phenomenon, a law was approved in 2011 about school violence (law 20.536) that establishes specific obligations for schools and school’s rules with the objective of preventing and reducing violence inside of schools.

Considering child labor, Chile has ratified Convention 138 of the International Labour Organization regarding the minimum age to work. The Work Code of Chile only allows those older than 15 years to work, as long as they comply with certain conditions in what has become designated as “protected adolescent work”. In addition, specific special norms have been established for activities in the entertainment industry when those employed are less than 15 years old.

There are numerous criminal laws that protect CA from sexual violence, punishing the crimes of sexual abuse, commercial child exploitation, and pornography. In this realm, a law was pronounced in September of 2005 punishing domestic violence (20.066), however there is still no law that forbids all types of physical punishment that is inflicted upon minors.

The relationship previously described shows the norms that protect the rights of CA, but also highlights that these norms are not integrated or harmonized in a unified Code of Rights of Children and Adolescents. Making an analysis of the State’s policies towards CA it is evident that each government agency designs and executes public policies in a way that is specific to the institutional definition of that agency. Correspondingly there is not a unique governing authority that coordinates and supervises services and policies aimed at CA. This means that the public policies that are directed at this population group are often fragmented, uncoordinated, and present voids and incoherencies. It should be noted that there are programs that are directed at specific groups of CA and that define a multisector policy spanning health, education, and psychosocial aspects (for example, Chile Grows with You), but those programs do not

comprehensively span the policies of each sector, nor are they able to cover the totalities of rights that correspond to minors. Overall, the focus of the program Bridge (“Puente”), which is a part of Chile Solidario (“Solidary Chile”), and that is “dedicated to the attention of families, people, and territories that are in a situation of vulnerability” addresses situations that allows this group to be under surveillance of sanitary policies that are preventative, and/or treatment and rehabilitation to ensure their optimal condition of health, as well as the good conditions of home occupancy, family dynamic (strengthening the parental link with children in an at-risk situation), work and income that favor adequate growth. Another program with an integral focus, and accent in the family unit is Opening Road (“Abriendo Caminos”). This program gives personalized attention to families through orientation and advice in order to help with the reorganization of the familiar system and links with other networks that offer possibilities of specialized assistance, or permanent assistance in the cases of families that are in a situation of vulnerability where there are people who are deprived of liberty and a CA between 0 and 18 years of age.

By focusing on the CA group that is at risk of losing parental protection, we must keep in mind that the Convention on the Rights of a Child (CRC) recognizes the family as a space for the formation and development of children and adolescents. However the Convention recognizes that in certain circumstances the parents cannot be with the child, which is why article 9 of the CRC establishes standards for the protection of the rights of the child to live with his or her family, and that in some cases “the separation is necessary for the superior interest of the child”, for example in “cases

where the child is being abused or neglected by the parents”.

To specify the various possible ways to protect CA, the Convention of the United Nations established on February 24th, 2010 the Guidelines of Methods for Alternative Care for CA. Although the Guidelines do not have the same regulatory range as an international treaty, some of the norms in the Guidelines reinforce the obligations acquired in the treaties; in particular those derived from the CRC and establish a framework for implementation by the States. The Guidelines point out how the State should act in supporting the efforts aimed at helping children to remain under the tutelage of their own parents, to reintegrate their family, or if necessary, to find an adequate and permanent solution for the CA. The Guidelines also establish the parameters to guide the solutions process while a permanent home for the CA is found. They recognize that the family is the fundamental nucleus of society, which means that the government’s efforts must be aimed at keeping the CA with their family of origin. Nonetheless if the family of CA is not able – not even with appropriate support – to provide adequate care to the CA, or if it abandons or renounces guardianship, the States should provide an alternative foster care, safeguarding the superior interests of the CA and his or her rights. In this sense, the government must implement special measures in support of the family and special protection to CA of vulnerable groups.

The recognition of the universal characteristics of Human Rights, the approval of the Convention on the Rights of a Child, and the idea that the child is a subject of rights because

of his lack of physical and mental maturity, who needs protection and special care, even legal protection, before and after birth, brings new ways to understand the relation between States, families, and CA. The concept changes from “incompetent family towards a vision where the family has potential, and has the ability to assume responsibilities and make possible the right of children to familial conviviality”⁵. However, the effective recognition of this concept mandates emphasis on equilibrium between the functions that are assigned to the family and offers from social services, as a necessary support resource for its fulfillment. The body of public policies mentioned throughout this section put onto the fore how these policies affect families, and certainly puts into question the ability of the family to protect the rights of children that live at the house.

In the case of our country the Law of Minors (16.618) features two measures that the Family Tribunal can adopt to protect a child whose rights are threatened or infringed: enroll the child and his/her parents or his/her caretakers to programs of support or supporting activities, or arrange the entry of the child into a Center of transit or distribution to a Residence. In this latter case, for the alternative care, blood relatives or people that are trusted by the child are preferred. Since this is an exceptional

⁵ UNICEF (2002), *Internación de Niños: ¿El Comienzo del fin? Crisis de los internados y la transformación de las políticas de infancia en España, Italia y el Conosur*, Florencia Italia. Publicaciones Innocenti.

measure, it is not decreed for more than a year and is checked by the Tribunal every six

months, while it can be renewed as long as the original cause of the situation still exists.

The institution in Chile that is in charge of orienting, coordinating, and supervising the Residence options is the National Service of Minors (SENAME). The SENAME is structured as a specialized organism that attends children that are in situations of medium or high complexity. The programs designed by SENAME are focused on the most vulnerable groups of the population. According to this scheme the prevention and promotional actions that SENAME performs are directed to specific CA groups associated with a situation of medium complexity.

Thusly, the Residence system is located at the apex of the Special Protection System, which is identified as a highly specialized offer and directed to children and adolescents whose rights have been severely transgressed, and that are therefore separated from their families. This type of specialized attention of SENAME is performed in partnership with private institutions in Diagnostic Centers and Foster Homes. The former are destined at dispensing transitory and urgent attention to CA that require diagnosis or need to be separated from their families while a protective measure is adopted on their behalf. Shelter, nourishment, and affective and psychological support are provided. On the other hand, the Foster Homes are establishments destined at providing stability and support to the CA separated from their families, and ensure access to education, health, and other services necessary for their wellbeing and development. The law points out that the entry of CA to this type of establishments can only occur through a judicial resolution.

The enactment of the Law of Subsidies (20.032) resulted in a change in the policies of attention for children and adolescents. On the one hand, it boosted the transparency in the transfer of funds to private institutions, and produced open-bid processes with the intention of encouraging specialization and competition between those that run programs of attention for CA. With this objective in mind, a registry of accredited collaborators that are certified to participate in the open bid process was created. Thus, SENAME has to design and maintain specialized programs destined at providing attention to children and adolescents, as well as stimulating, orienting, and giving technical and financial supervision to the labor performed by public and private institutions that are accredited collaborators. The legal change of the Law of Subsidies of SENAME (20.032) meant that the work of coordinating and supervising the public and private entities that contribute to the operations of the network could only take place towards institutions that the government organism subsidizes. This implies that currently SENAME has no recourse to get involved, regulate, or supervise through formal channels, institutions that do not directly its funds.

It has been mentioned in this section that although the Chilean State subscribed to the Convention on the Rights of a Child, it has not issued a judicial body that unifies and harmonizes the ensemble of sectorial laws that refer to the different rights and methods of protection of CA. It has also been indicated that therefore the organization of the Chilean State does not have the judicial capability to carry out



a systematic, unified, and coherent policy that coordinates the various government agencies to safeguard and promote the rights of CA. There

does not exist a supreme authority that defines a policy towards children and adolescents with the characteristics previously mentioned.



This absence occurs in a context of growing comprehension of the rights of children as part of human rights with their characteristics that are universal, irrevocable, mandatory, indivisible, inviolable, and imprescriptible. The conception of a child as a subject of rights must be understood as an act that compels special protection and care that are necessary due to their lack of physical and mental maturity.

As mentioned in The Convention on the Rights of a Child and the Guidelines of Methods for Alternative Care for the CA, the protection for children and special care resides with the family of origin. However when these rights are threatened, unfulfilled, or infringed by living with that family, it is the State that must step in through a judicial resolution and pertinent authorities, to implement measures to help the family revert the situation that threatens the CA, or in cases of extreme transgression of rights, to provide alternative institutional environments where the proper conditions that respect the CA rights can be delivered (Centers, Foster Home or Foster Family). In that sense,

the action of the State must guarantee that the conditions of a CA who enters the System of Alternative Care, and that therefore was separated from his or her family of origin, are better than those that the CA had before, and that these new conditions guarantee the protection of the CA rights.

Given that SENAME sets the norms for regulating the conditions of the System of Alternative Care, it is positive that the process of transfer of funds to carry out programs of attention for CA, means that the institutions have to fulfill certain technical conditions, and that the institutions that collaborate and participate in the bid processes have to be certified. Yet it is worrisome that SENAME does not have the capabilities of technical supervision in residencies and centers that do not receive government subsidies. This is even more striking since the judicial bodies that the Chilean State has signed, compel it to guarantee the rights of CA when parental care is not available.

IV. Institutional analysis and dynamic of the System of Alternative Care for CA

SENAME is the government's organism in charge of generating and developing foster service for CA whose rights have been violated, and coordinating and supervising the institutions that collaborate in this function. More broadly, SENAME has the function of developing strategies to prevent and protect CA from situations of violation of human rights, as well as promoting those rights.

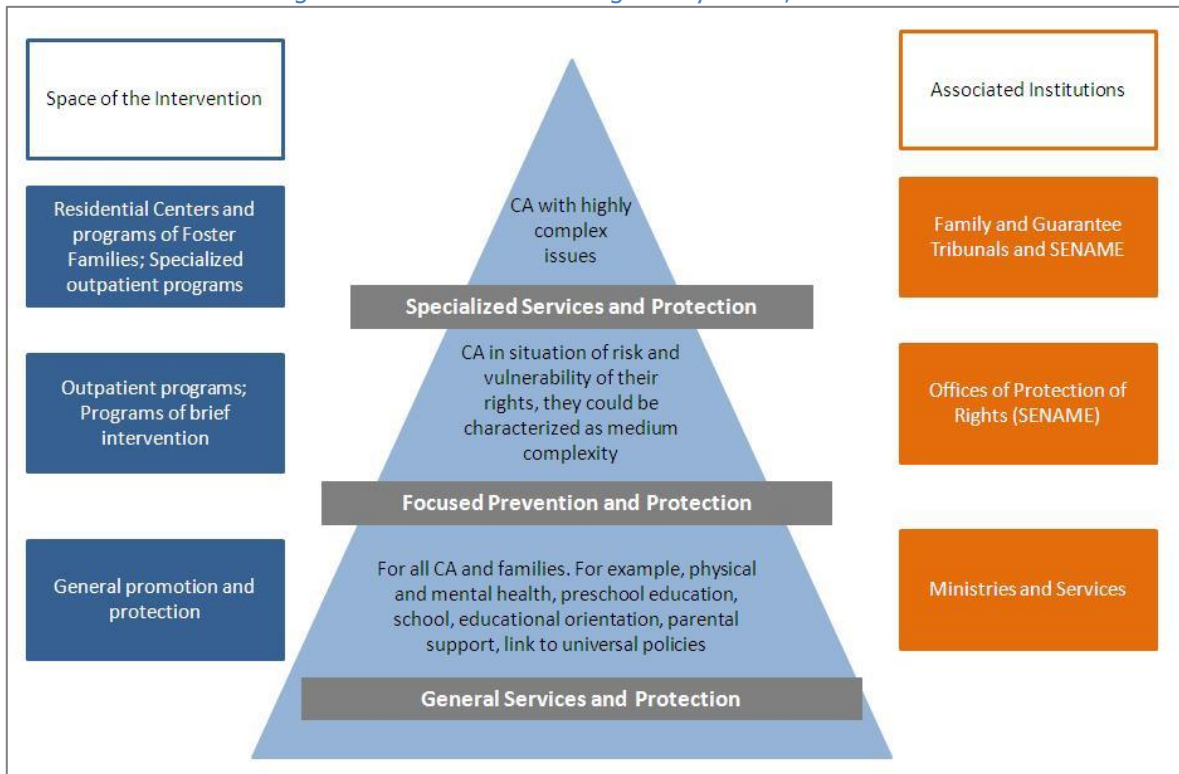
To achieve its role of providing residence and help to CA, SENAME has Diagnostics Centers, Foster Homes, and programs for Foster

Families. In the case of the latter, the extended family of the minor can participate, or an unrelated family can be chosen. Furthermore, the broader strategy of prevention and protection includes actions related to adoption.

The program and the type of intervention that SENAME establishes, is chosen depending on the level of complexity of the population intervened, meaning, the level of violation its the rights. Through this classification a difference between these levels is established in the target populations of the program, the type

of service offered, the relationship with the users, and the space where the intervention will occur.

Figure 6: Protection of rights by level, SENAME



The first level corresponds to “protection that is universal and wide ranging, which must be accessible to all children and adolescents that require it, especially if they are living in conditions of poverty and in situations of low complexity in relation to the transgression of their rights”.

For this level, the actions of SENAME must provide support and technical advice on general policies of assistance, and promotion of rights. These must be present in local areas that integrate the networks involved in CA topics (education and health) with the corresponding

local institutions as defined by municipalities. In this manner, at the base of the pyramid, SENAME would have a supporting role with various Ministries (Health, Education, Social Development, among others) to plan and carry out universal policies of attention towards minors.

The second level provides actions that are more focused on protection and prevention. This level has more specific characteristics and particular specializations in order to assume more complex problems, on fieldwork, in social sectors, or particular groups. It is guided

towards people in a situation where their rights are at risk or may be violated. These can be broadly categorized as medium level in complexity: situations where they have not dropped out of school yet, consumption of

At the third level, the actions in the realm of protection are further specialized. This level is primarily focused in highly complex problems working through methods of specific intervention: prolonged desertion from school, problematic drug consumption, bad forms of child labor, commercial sex exploitation, transgressive behavior that can be qualified as a crime, absent families or highly negligent behavior, highly violent familial links, life apart from the nuclear family of origin, etc. It should be noted that "the work by Centers and programs specialized in the protection of rights that collaborate with SENAME are focused on this third level". In this last level residential protection is applied as a measure of last resort in cases where the situation of negligence is highly complex, if there is parental violence in the family of origin that provokes severe damage to the physical and psychological integrity of the CA, or when the responsible adults that are supposed to provide the protection and care to the CA are partially or completely absent. The aforementioned implies the separation of the child or adolescent from the family through a judicial protection measure from the Family Tribunal.

In order to protect the CA, the legal and natural persons (NGOs or natural citizens, respectively) that decide to enter a partnership with SENAME in one of the areas that the government institution subsidizes, must agree to certain requisites. To obtain the necessary resources each institution can participate in bids of the

drugs is not yet problematic, transgressive actions cannot yet be characterized as crimes, familial links do not yet have violent relationships, etc.

projects that are implemented in agreement with the norms of law 20.032. In the bids SENAME provides the technical basis through which it sets the objectives of the program, the necessary results, types of team that should implement the program, the work methodology, among other characteristics. Similarly, SENAME has the task of performing due supervision to ensure the fulfillment of the technical guidelines and bases that it set. In the case of Foster Homes, the institution's infrastructure and facilities must meet specific characteristics to apply.

In terms of funding, a Regime of Subsidy was established through law 20.032 which regulates and structures a system of budgeting, with details on bidding, finances and technical assessment, and establishes the financial resources that the government grants for the functioning of the programs implemented by the institutions associated with SENAME. To determine the amount to be paid, a method of calculation is defined for each program establishing a base value that is the minimum that will be paid out and that increases according to variables such as age of the CA attended, complexity of the situation that the project addresses, geographic area, and coverage of attention.

However, this Regime of Subsidy starts from the premise that the public subsidies granted to the institutions associated with SENAME, do not necessarily have to cover the total cost of attention to CA. Therefore, it is the responsibility of the collaborating institutions to



provide the missing resources to provide quality attention.

Since the law was applied a few years ago it can be observed that although this premise is fulfilled in some of the instances of attention

included in the Law, in reality, most of the collaborating institutions finance the totality of their projects with funds from the public subsidies anytime that they do not dispose of their own funds to complement those subsidies.

In regards to each group of CA attended by SENAME and their network of collaborating institutions, depending on the level of complexity, it is possible to identify different paths or ways that the institutions will follow depending on the possible interventions for the CA who are at risk or that have already lost parental care.

In the first place, there is the low complexity population, meaning that the CA interacts with the public policies of Social Protection Services. For this population there are programs available such as the Programs of Community Prevention, which have the goal of preventing the transgression of rights by installing a community system of promotion and protection in micro-territories (neighborhood, community, section of commune, or locality). Its establishment in the neighborhood seeks to develop abilities in self-protection and promotion of the rights of CA, as well as to generate spaces to involve people and make them participants of their citizenry. Among families the main competency promoted is good treatment of CA. With community or neighborhood figures, the emphasis is on developing a prevention system and early alert of transgressions of rights in micro-territorial spaces. The access to this program can occur by request of a person interested, by direct invitation from team to the CA, families and/or community figures, or by an open call from the team to the neighborhood, community, or locality.

In the level of medium complexity, there are programs of targeted attention. In this case the route of entry to the system could be demanded by the Family Tribunal (as a way to avoid institutionalization) or through the SENAME networks located in the community or

nearby. Likewise, it is possible that the entry is applied from the Office of Protection of Rights, from Outpatient Diagnostic Program, and from the programs of Residential action. Additionally, direct detection of local actors or figures is also considered.

It is important to point out that SENAME has installed at the communal level throughout the country, Offices of Protection of Rights (OPD), a program for the protection and promotion of the rights of the CA population. Its work guidelines include "the protection of those who had their rights infringed" which permits an accurate detection, intervention and referral of children whose rights have been violated. Another line of their work is to provide legal, psychological and/or social attention to CA and their families, which provides an interaction between cases of low, medium, and high complexity. Law 20.032 establishes that the OPD are "outpatient bodies of local characteristics designed to execute actions that are focused on offering integral protection to children and adolescents, and contribute in the creation of condition that favors a culture that recognizes the rights of minors."

At the level of higher complexity there is the system of Residencies in any of their modes, which have the objective of protecting CA that had to be separated from their family of origin or their caretaker, due to a situation of severe violation of their rights, and temporary or permanent inability to provide responsible care and nurture from the corresponding adult figures. For access to these centers, in agreement with Law 20.032, all cases must pass through the legal system, meaning that the appropriate Family Tribunal must issue an order of entry to System of the Alternative Care. At this level the Foster Family programs



of every type are found as well: simple or | specialized.



These program receive CA that have been separated from their family environment and embedded into a new family group belonging to their extended or blood-related family, or to a family without ties or blood-relation.

On the third place, in this level of complexity the Program of Specialized Protection is located. It is focused in the treatment from damage associated with physical abuse and/or psychological abuse and/or sexual aggression that has criminal characteristics, and that is aimed at children or adolescents. These programs are introduced in the program of Special Intervention for children and

adolescents that are found in a situation of severe violation of their rights, classified as high complexity, and that requires a multidisciplinary approach that prioritizes an integral method.

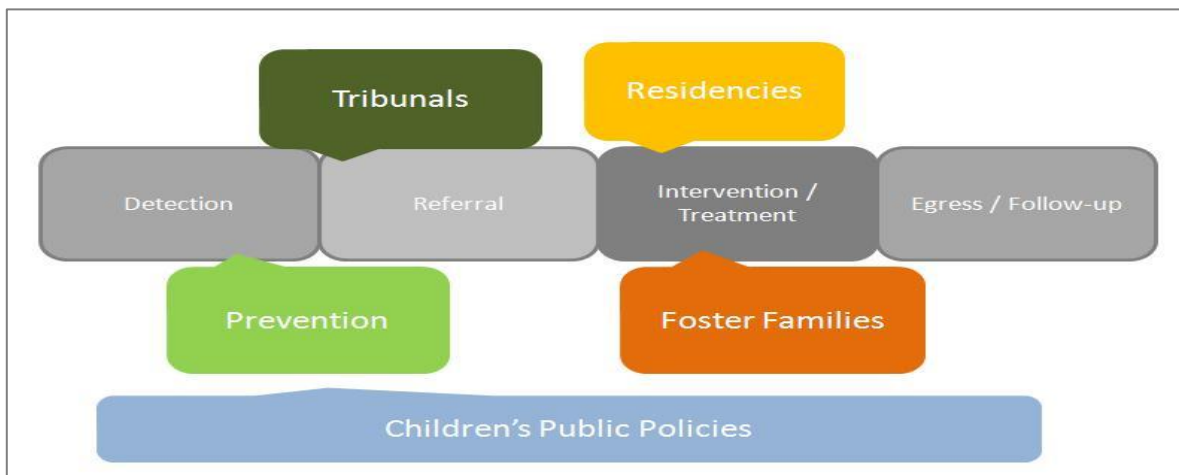
The entry request for the specialized programs must be a referral given formally by the public prosecutor and/or Justice Tribunal. In all cases, the Regional Directions and institutions that are part of the SENAME network can issue exceptional referrals for entry into the System of Alternative Care under the clause of special protection, as long as a formal complaint is filed with the public prosecution.

V. The System of Alternative Care from the perspective of its stakeholders

In the institutional framework described, it is worth asking how the functioning of the State's System of Alternative Care is perceived based on the opinions of the stakeholders of the System of protection of CA that are at risk or that have already lost parental care. With this purpose, we conducted in-depth interviews with various stakeholders of the System. The objective of these interviews was to complement the information available from secondary sources and be able to understand from the stakeholders who work in the System

the various aspects of its functioning and the path followed by the CA in the System of protection. We interviewed people that belonged to different institutions such as Tribunals, Foster Homes, Foster Families, organisms of prevention, and experts in children's public policy. The analysis of the System of Alternative Care was performed dividing the path of CA into 4 moments: detection, referral, intervention and treatment, and lastly egress and follow-up. We positioned the 5 groups of interviewees on this continuum:

Figure 7: Moments of intervention and stakeholders in the System of Alternative Care



Following this logic we covered different stages of intervention with the CA that have lost or that are at risk of losing parental care. The stage of prevention was defined as the moment when signs of some degree of transgression of rights have already appeared in the familial situation. This analysis is performed by the Offices for Protection of Rights (OPD), which is dependent on SENAME because an intervention

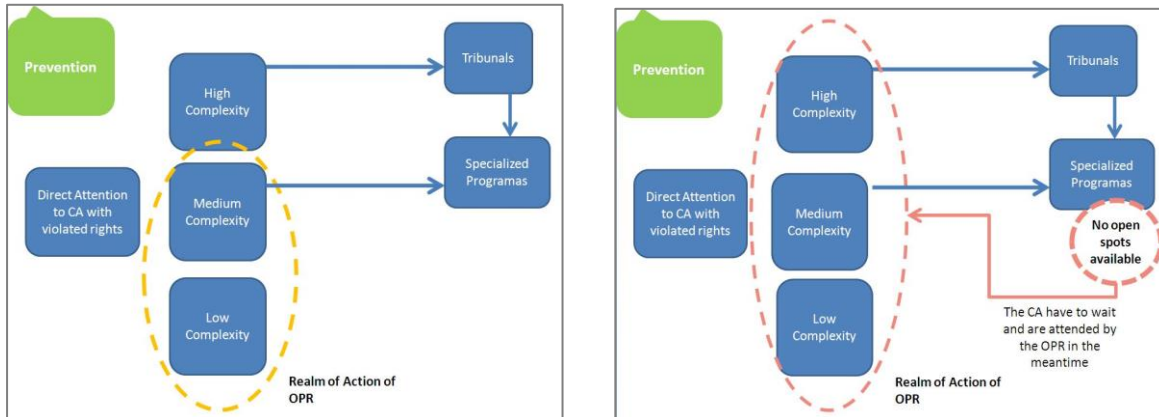
is considered a preventative measure to avoid a family separation. In the case of Foster Homes and families the intervention are implemented when the request to separate the CA from their family of origin was already dictated. The group of children's public policies can be seen throughout the path of intervention because it gives us a more general outlook about the System of Alternative Care.

Path of Intervention: CA without parental care

We inquired about the dual role of the **Office of Protection of Rights**: promoting rights and articulating the responses of the network to provide the attention necessary to CA. The answer of OPD employees is that the load of cases of CA whose rights were breached, surpasses the capacity of attention of these offices, leaving little space for the mission of promotion. Hence the promotion of rights, although very relevant in the guidelines of operations, is relegated to the background of operations. In regards to the attention of cases, the OPDs are meant to attend cases of low and medium complexity, however the level of complexity is higher than it should be and includes cases of a high level of complexity,

which according to the System, should be referred to other authorities. The reason why this happens is because in cases of high complexity and situations of severe vulnerability, the OPD is obliged to interject measures of protection in behalf of the CA and enter the case to the judicial system through these measures. Until the Tribunals do not give a referral of the case towards one of the specialized programs, whether it is the Residential system or Specialized Intervention, and an open spots to receive the CA is found, the OPD team is in charge of the "protection" of the child or adolescent involved. Yet, they do not count with a professional team, or adequate specialization to confront this task.

Figure 8: OPD realm of action, ideal versus real



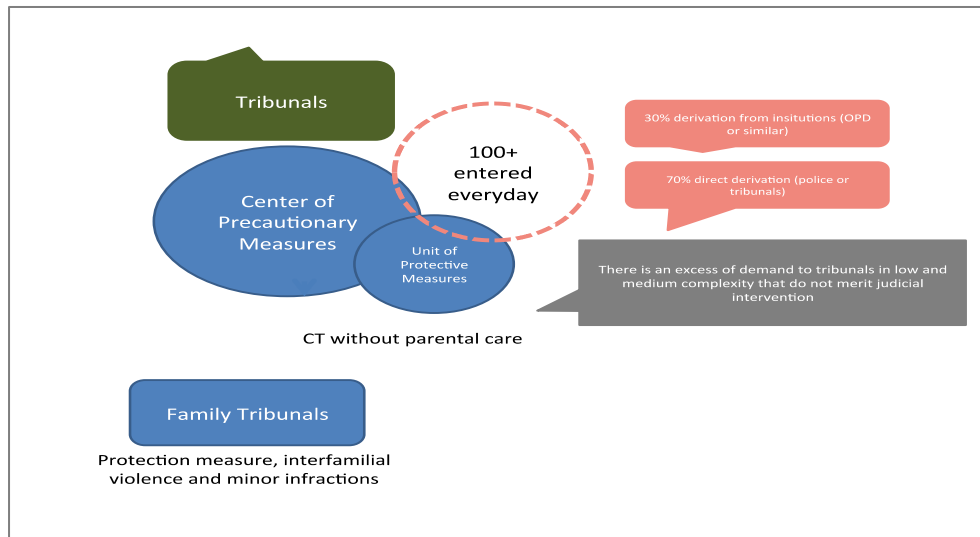
The more saturated the System is, the slower the Tribunal will act, the longer the delay of the referral of the CA into a Specialized Intervention or Residential program (Foster Home, Foster Family), and the OPD will have to handle more cases and continue to exceed the level of complexity that corresponds to the Office. The wait period can be months long, and even as high as a year. Until the Tribunals attend the CA, the OPD has to carry out an “accompaniment”, adding to their overload of work. The lack of response from specialized programs due to high demand leads to a lack of open spots for new cases, generating a work overload for the OPD, and what’s worse it leaves CA in a condition of severe vulnerability without adequate attention for their needs within a reasonable timeframe. In short, the OPD cannot fulfill their important role of promoting good treatment and the rights of children at the communal level because they have to focus on attending cases, and in compensating for the lack of availability of open spots in specialized programs, and they have to

deal with a demand for attention that is much more complex than are designed to handle.

In the case of the **Tribunals** the principal difficulty mentioned is related to the inefficient use of the judicial system, in particular with requests that do not merit being received at the courts. This means that there are external obstacles or they are not manageable by the Unit of Protective Measures of the Center of Precautionary Measures of the Family Tribunals. In theory, only the “severe” cases should enter the Tribunals, however constantly cases are entered that do not meet this level of severity. In the interviews it is mentioned that in Chile there is a certain “culture of prosecution” so in any situation of conflict, people will direct go to the Tribunals or the police. Thus, the interviewees point out that 70% of the cases enter directly into the Family Tribunal, and only 30% of the cases have passed through another institution. This should serve as a call to local institutions to tackle the cases in their surrounding environment and decrease the number of cases that arrive directly to Tribunals

since judicial intervention may not be necessary.

Figure 9: High demand of requests to Tribunals without previous assistance of intermediate bodies



Furthermore, the professionals tied to Tribunals indicate that the System of protection of children and adolescents might be trapped in a vicious cycle: to enter a program of attention it is necessary for the cases to go through the judicial system, but at the same time it is necessary to decongest the judicial system in order to provide expedient attention. Since a great number of the cases entered daily (more than 100) does not have any previous information, the personnel of the Tribunal must begin a long and laborious inquiry about the risk situation of the CA. Many of these cases don't have any previous information from the Center of Precautionary Measures (CMC) because they haven't gone through an institution previously. In the cases of imminent risk, the request is entered by the Tribunal, as a decision that needs to be adopted with haste and as a temporary act, and given that the Foster Homes and Foster Families do not have "open slots" and are "collapsed", the CMC

manifests a judgment of "savings" by sending them to Foster Homes only in the most urgent cases. Once the CA is sent to a Foster Home or Foster Family, it is the Tribunal's task to review the adopted measure.

In regards to the **Residencies**, the CA that arrive there are not only characterized by their low income socioeconomic level, but also for having suffered severe violation of their rights, which makes them very complex cases. In their cases it is not enough to provide food and basic care, but it is necessary to perform an intervention that evaluates the capabilities of the family of origin to receive the CA again, and also a psychosocial intervention of the CA involved. The Foster Homes do not have the necessary economic resources to provide for this complex professional attention, and this problem becomes even more acute when psychologists or doctors must attend the CA urgently. Since the waiting period in the public

health system can take a long time, occasionally it is necessary to recourse to attention in the private system.

A second difficulty is that although a priority is to find a significant adult with whom the CA can establish a connection and a person who the institution can work with to achieve the egress of the CA, the Foster Home and the adults can often be far apart geographically. Ideally the internment of the child should consider geographic closeness with the adult to privilege intervention and reconnection, but in reality the CA referred to Foster Homes go to the institution with open slots.

A third difficulty is constituted by the inability to maintain professional teams with experience and optimal qualifications. Currently because of the low wages that are received by the mentors, they don't possess outstanding qualifications. In the case of psychologists and social workers, because of the level of financing, they have little professional experience, and are trained by the Residence teams.

Finally, in the cases of Residences we do not identify as a systematic practice mechanisms of monitoring the cases that egress from the homes.

The **Foster Families** (FF) programs – like the Residencies – are part of the more complex intervention path of the System, meaning cases when the CA had to be separated from their family through a judicial decision because they were victim of severe violations of their rights. The FF programs can be mainly divided into two lines of work: on the one hand they are dedicated to engaging in the temporary care of CA and activities are performed to promote their care; and secondly, they perform a

process of evaluating and guiding the CA, aiding with his or her recovery to open the possibility of living with a family or to prepare the CA for a long stay and an independent life.

To be able to engage the temporary care as well as the evaluation and work with the family of the CA, the Foster Family Program posits that they should be connected with the social networks to attend the necessities of the CA that has been entrusted to them. However, the interviewees narrate enormous difficulties in having timely access to basic networks of health and education, as well as specialized networks within these areas. The main difficulty for FF in this respect is find an open slot in an educational establishment, a difficulty that increases if it is considered desirable to enroll the CA in a school that is nearby the corresponding FF. In addition, it is clear that the CA that enters these programs can have a level of low education due to situation of vulnerability that they lived. Enrolling them in a school becomes more difficult, especially if it is necessary that the establishment have a program of integration. Additionally there are the issues that few open slots available in educational establishments, the negative response from schools faced with student that have a background of bad behavior, and the complaints of the school community when a CA from a condition of vulnerability is enrolled.

Specialized psychological attention is coordinated with other program or instances of SENAME, however, given the great demand for psychological attention, there are situations when the internment or care ends without the CA having entered the required program.

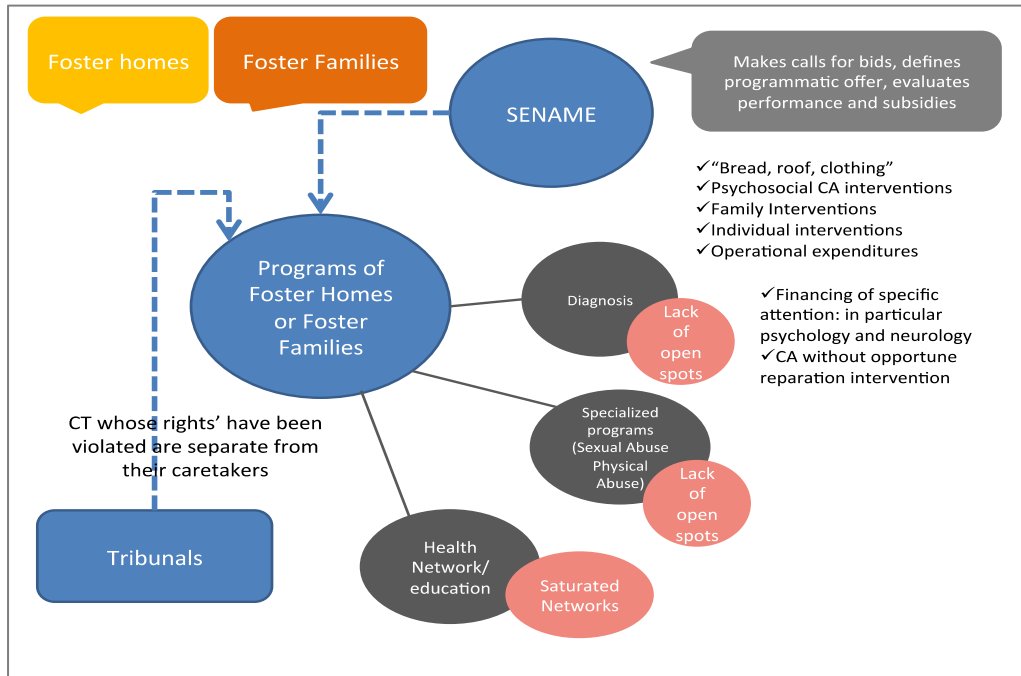
The External Foster Family is a foster family that does not have previous ties with the CA, welcomes the CA to their home, and is

responsible for his or her while the CA is in the program. Currently these families are called upon when the CA doesn't have family members that can be responsible for his or her care. One of the problems in respect to the program of External Foster Families is the low level of replacement that exists. It was mentioned that few families today open their homes to receive a CA, and that the families willing to do so are always the same, which is the reason that with the passing of the years the families that form part of the program are aging. As a consequence there are few families available, and the ones that are available are older and with a low proportion of replacement, which is why only 20% of the Foster Families are external.

In spite of the lack of External Foster Families, the government budget does not contemplate resources to recruit new External Foster Families. Since these Foster families are increasingly fewer, it limits the intervention possibilities by the System, in particular when a CA does not have an extended family that can become responsible for their care or when there is a situation of crisis and the availability of a family is necessary.

On the other hand, the work with Foster Families that have previous ties with the CA, carries various difficulties. The standard that is required of them is not the same as that required to External Foster Families, and controlling for the same conditions of care is not entirely possible.

Figure 10: Residential System (Foster Homes and Families)



In summary what was mentioned in the interviews is that the dynamic of the System of Alternative Care shows grave issues: severe issues of inter-institutional integration, problems in differentiated attention by type of risk, and lack of financial resources. Additionally the System lacks adequate professional care for cases of high psychosocial complexity, which

cannot be limited to the provision of basic care. There also must be institutions and programs that can take responsibility of CA that cannot return to their families of origin. Finally if a CA does return to their family of origin systematic monitoring and follow-up of minors must be performed while favoring integration of that minor into the health and educational systems.

Transversal Topics of the System

This study has explored the path that transverses the stages and institutions of attention in the System of Alternative Care, highlighting different current issues to each one of these instances. The most important issues are that there is too much demand for attention and consequently lack of coordination in the

network, and also a lack of financing for the System of Alternative Care to perform its work with CA.

Too much demand for attention, lack of coordination of network

The most important problem had to do with the high demand for attention that was evident in each instance of intervention. This happened as much in the attention of low severity cases, as those of high severity. In each of the instances investigated the stakeholders of the System mentioned that their services could not keep up with the amount of CA that needed attention. Moreover, at the moment of referring a CA to another instance of attention, the same situation of overload occurred throughout the System which whom they are supposed to work in coordination.

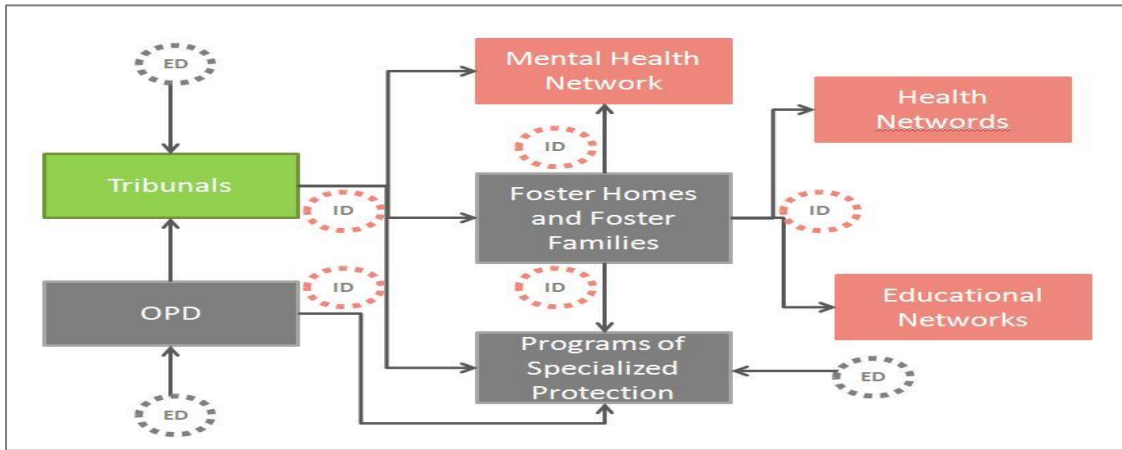
Within the System of Alternative Care the structure of attention is composed of different types of institutions and programs that the SENAME network uses to addresses cases depending on the specific needs of each case. As it was mentioned previously, when a CA enter the Residential program, he or she should enter a Foster Home or Foster Family, and also programs of specialized attention that can engage with more complex themes such as sexual or physical abuse, and a program that can provide a diagnosis when the CA enters the System. In addition, a Family Judge must review the judicial measures every six months. However since there is constantly a high demand for attention in all levels of the system,

the work in the network is ineffective, leaving the CA without necessary interventions, and with waiting times that can run up to almost a year to enter the System. Therefore the interventions do not fulfill the scheduling planned to generate positive results.

Furthermore, the work performed by institutions that are responsible for the care of CA without parental care, also considers the coordination of attention with other networks that are external to SENAME, namely education, health and mental health. Similarly to the networks associated with SENAME, these external attention networks are also overworked, and as a result have long waiting period to attend the CA of the System.

Below is a graphic representation of the overworked System, where the arrows represent the origin of the demands for attentions in the System that can be external (demands of direct attention) or internal (from other programs of the SENAME network). Yet the programs or services – in all cases – don't have the open spots available to effectively respond to the population's demand, interrupting the expected flow of attention.

Figura 11: (Over) Work of Attention of System of Alternative Care*



* ED= External Demand, ID= Demand that corresponds to a program of attention that belongs to the SENAME network

In summary, demand is high, and the available supply of necessary attention is insufficient in every instance. We identify nodules or “bottlenecks” in every link between institutions and/or programs that results in long waiting periods to receive attention. The System is designed for the attention to be received without interruptions to ensure that the issues identified, and the reason for the separation of the CA from the family of origin, is promptly addressed so that the violation of the CA rights’ is effectively interrupted. In relation to the issues of congestion, the stakeholders of the System identify the small amount of investment spent in prevention as a missed opportunity to decongest the system from “the beginning”. This assumes that the total number of CA that require attention in the specialized instances would be reduced through interventions anchored in the promotion of rights and strengthening the competency among parents to avoid the emergence of problems in parenting and care.

Scarce Financing

Throughout these interviews, various stakeholders of the System signaled that the financing that the State provides through SENAME is insufficient to carry out adequate interventions of CA. It was mentioned that although money transfers for interventions are contemplated at every instance of attention, this amount is significantly less than the real expenditure that every institution must outlay. As a result the transfer of money, called “Subvention Unit of SENAME”, is precisely a subvention, in other words, an economic contribution that complements but does not completely take responsibility for financing an initiative. Consequently, it is the collaborating

institutions that become responsible of the important part of the financing for CA, or they must obtain it through other foundations and organizations.

To have a frame of reference regarding the monetary amounts that SENAME transfers to the Residential system (Foster homes and Foster Families), we compared this amount with the established “poverty line” which in Chile is defined as the minimum income for a person to satisfy his or her basic needs. The amount defined for 2013, and that has been used in the present study is described as the basic food basket which was established in the patterns of consumption defined by the IV Poll of Family Budgets of the Statistics Institute of Chile from 1987-1988.

To estimate the amounts transferred to this type of institutions, it must be explained that the amount of the transfers vary according to certain characteristics of population of CA attended by the institutions. This means that more money is transferred to institutions that attend more cases of higher complexity of CA, or more is transferred depending on the characteristics of the geographic location of the institutions.

As a result, the Subvention Unit of SENAME (US\$), for the Residential centers can vary between 8.5 and 15 US\$, while the subvention for the Foster Family program ranges from 6.5 and 9 US\$. The US\$ for the year 2013 is \$13.410 Chilean pesos, which is approximately 26.40 dollars. In addition, the interviewees stated that the subvention amounts granted tended to skew towards the lower limits of the established range for the programs, therefore for the present analysis we used the lower limits of financing, which can be seen in the following figure.

Figure 12: Financing of the Residential System by SENAME (Foster Homes and Foster Families) compared with poverty line, 2013



As it can be seen in the graph above, the financing that is delivered to the institutions of the System that are responsible for CA, is higher than the income that a person should need to satisfy his or her basic needs. However, this amount granted per CA attended in the System of Alternative Care, not only has to cover aspects such as food, clothing, and shelter, but the institutions also have to perform an intervention and treatment of CA in situations of vulnerability. This amount also includes a mandate to form a professional team in charge of the interventions, administrative personnel, as well as healthcare attention. Considering these dimensions, the institutions indicate that the amount that is granted to them is insufficient to fulfill this labor, and that their only option is to search for further funds, whether it is inside the institutions (if they have

the option of applying to internal or international funds) or create alliances with other institutions.

In this sense, it is necessary to note the difficulty to conform and maintain professional teams that are willing to work for wages that are not competitive with other offers in the market. This means that the financing also has an impact in the quality of the professionals available to institutions. In general the stakeholders of the System mentioned that the professionals that they can choose have scant prior labor experience, or their period of participation in the institutions is short. This would have repercussions in the quality of attention and intervention received by the CA attended.



In regards to this, the stakeholders of the System mention and question, who is ultimately responsible for the attention received by the CA that are inside the System of Alternative Care. In the Convention on the Rights of a Child the State is established as the body that ultimately guarantees care of the CA when they have

been separated from their parents. In reality though it is the institutions that have to take care of their attention and financing if necessary. In this sense the institutions are acting like the ones that are ultimately responsible.

VI. Final Comment

The basis of these difficulties is that the State's planning does not consider a powerful institution at the local level to promote a multi-sectorial policy of promotion of CA's rights and sufficient capacity to provide attention for cases of low levels of complexity. For this to occur the secondary and tertiary levels would have to be strengthened since they are overworked, and seemingly collapsed for having to constantly answer with haste to demands of attention. It seems urgent the need to boost financial grants for providing attention to minors, improving standards of quality not for each project, but for the teams that attend CA in centers and homes. This necessitates an amount of financing that corresponds to the task of providing real protection of rights of CA in the context of a professional job that is highly complex and demanding. In addition a dynamic expansion of Foster Families is also necessary, as well as setting costs at realistic standards that correspond with different levels of complexity in the attention of CA.

More broadly, it is necessary to create an authority that has executive capacity to implement an intersectorial policy of CA care. This authority should set clear objectives that can show periodical levels of advance in medium and long-term plans. In order for this policy to be fruitful it must install in the local space a potent capacity for the promotion of rights, detection of risky situations, and quick and efficient referral to instances of protection and foster care. At the same time, these instances must function with enough resources to ensure a professional level of quality that guarantees the protection of rights that are threatened or restore those that have been infringed.

This System is pending and is one the most severe debts that Chile has for the fulfillment of the rights of CA in the framework of the Convention on the Rights of a Child that the country signed over two decades ago.