



Revista Latinoamericana de Ciencias Sociales, Niñez y Juventud

ISSN: 1692-715X

ISSN: 2027-7679

Centro de Estudios Avanzados en Niñez y Juventud Cinde  
- Universidad de Manizales

Castillo-Gallardo, Patricia; González-Célis, Alejandra; Rivas-Naranjo, Viviana  
The crisis of subsidiarity in the National Service for Minors: Chile (1994-2021)\*  
Revista Latinoamericana de Ciencias Sociales, Niñez y Juventud, vol. 20, no. 2, 2022, May-August, pp. 273-294  
Centro de Estudios Avanzados en Niñez y Juventud Cinde - Universidad de Manizales

DOI: <https://doi.org/10.11600/ricsnj.20.2.4932>

Available in: <https://www.redalyc.org/articulo.oa?id=77372885012>

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# The crisis of subsidiarity in the National Service for Minors: Chile (1994-2021)

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## Abstract

In recent years, Chile has experienced an intense socio-legislative debate in which the State and society have taken responsibility for children who, for various reasons, cannot be cared for by their biological families. The crisis in the child protection system has become evident, highlighting the need for reform. This article proposes a critical analysis of the implementation of this policy based on a descriptive-interpretative study of the documents and evaluation reports produced by the National Service for Minors between 1994 and 2018. The study identifies structural deficiencies in the system that continued since this institution was founded. The authors identify that the cause of these deficiencies is the principle of subsidiarity of the State in this area.

## Keywords

Institutionalization; social policy and welfare; social policy; child abuse, children's rights.

## Thesaurus

UNESCO Social Sciences.

## Para citar este artículo

Castillo-Gallardo, P., González-Célis, A., & Rivas-Naranjo, V. (2022). The crisis of subsidiarity in the National Service for Minors: Chile (1994-2021). *Revista Latinoamericana de Ciencias Sociales, Niñez y Juventud*, 20(2), 1-22.  
<https://dx.doi.org/10.11600/rllcsnj.20.2.4932>

## Historial

**Recibido:** 24.05.2021

**Aceptado:** 23.11.2021

**Publicado:** 21.04.2022

## Información artículo

Fund Scientific and Technological. Fondecyt N° 1190150 (2019-2020).

**Área:** infancia. **Subárea:** institucionalización.

## La crisis de la subsidiariedad en el Servicio Nacional de Menores: Chile (1994-2021)

### Resumen

En los últimos años en Chile se asiste a un intenso debate sociolegislativo respecto al modo en que el Estado y la sociedad se responsabilizan de la niñez que, por diferentes razones, no puede estar al cuidado de sus familias consanguíneas. El sistema de protección de la infancia ha hecho evidente su crisis provocando la instalación de una reforma al sistema. En este artículo se propone un análisis crítico a la implementación de esta política, a partir de un estudio descriptivo-interpretativo de los documentos e informes evaluativos realizados al Servicio Nacional de Menores entre 1994 y 2018. Se identifican deficiencias estructurales en el sistema que han permanecido a lo largo de toda la historia de la institución y cuya causa es el principio de subsidiariedad del Estado en la materia.

### Palabras clave

Institucionalización; política y bienestar social; política social; abuso de menores, derechos del niño.

## A crise da subsidiariedade no Serviço Nacional de Menores: Chile (1994-2021)


### Resumo (analítico)

Nos últimos anos, o Chile tem sido testemunha de um intenso debate sócio-legislativo sobre a forma em que o Estado e a sociedade assumem a responsabilidade pelas crianças que, por diversos motivos, não podem ser cuidadas por suas famílias. A crise do sistema de proteção à infância foi extremamente evidente, o que alavancou uma reforma no sistema. Este artigo propõe uma análise crítica da implementação desta política, baseada em um estudo descritivo-interpretativo dos documentos e relatórios de avaliação do Serviço Nacional de Menores entre 1994-2018. Ele identifica deficiências estruturais no sistema que permaneceram ao longo da história da instituição e cuja causa é o princípio de subsidiariedade do Estado na matéria.

### Palavras-chave

Institucionalização, política e assistência social, política social, abuso de menores, direitos da criança.

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## Introducción

In the last few years in Latin America, we have witnessed an intense socio-legislative debate on the way that State and society take responsibility for children who, for different reasons, are unable to be cared for by their family of origin. In Chile, it seems that the crisis of the child protection system has become evident as a result of public denunciation, which has made visible situations of serious abuse within the institutions financed by the State, sometimes resulting in death. The situation of children needs to be analysed in terms of a series of specificities. Chile is one of the most unequal countries in the world, according to the report of the Observatorio de la Niñez y Adolescencia (2016); analysing the data from Casen 2015, 18.2% of the child population is under the poverty line measured by income, while 5.8% is in a situation of indigence, to which we must add that poverty measured by income is comparatively higher in each of the sections with respect to adults. At the same time, children between the ages of 0 and 5 have the highest proportion of the population in a situation of indigence (6.3%). In this regard, «early childhood is the population most affected by social and economic deficiencies and conditions that facilitate the violation of their rights and limit the possibilities of comprehensive development to the maximum of their potential» [translation is ours] (Observatorio de la Niñez y Adolescencia, 2016, p. 33). Socio-economic inequality also generates the formation of spatially segregated territories which accentuate these differences (Figuerola *et al.*, 2018).

To this, we must add that Chile is one of the countries with the highest rates of child abuse, which occurs regardless of the socio-economic stratum in which children live. According to figures from Unicef (2015), 71% of children and adolescents claim that they are the victims of some kind of violence from their parents. In addition, the results of the ELPI survey (Ministerio de Desarrollo Social, 2017) points out that 62.5% of parents say they use violent methods of discipline in (56.9% psychological aggression; 32.5% any physical punishment), and that 31.7% of children receive non-violent discipline. The ELPI survey shows that among the violent methods of discipline applied by adults in

households with children are shouting (53.9%), slapping on the butt (26.4%), insults (18.9%), slapping on the face, head or ears (4.5), pats on arms or legs (4.1%), blows with a belt, stick or other object (2.7%), and beatings (0.6%). This study also shows that younger children receive more physical punishment than older ones.

In other words, inequalities are concentrated in children only due to their generational position, placing themselves in the relational dynamics below the adult world (Liebel, 2020). These forms of unequal bonding, called adult-centred practices, imply a relationship of subordination in which children must be obedient and submissive, especially in the founding institutions of social order, i.e. school and family (Morales & Magistris, 2018). To the subordination coming from adulthood, we must add class, gender and ethnic violations to understand how children experience childhood in Chile and around the world.

In the face of this explicit power differential for children, the adult world decided to recognise more than 26 years ago a series of rights in what is now known as the *Convención sobre los Derechos del Niño* (hereinafter CRC), the minimum standard in order to build a new relationship between generations. In Chile, we are still far from these rights being materially protected, a situation that is aggravated when it comes to *deviant* or *irregular* situations (Villalta, 2010).

This paper proposes the analysis of documents and evaluation reports made for the National Service for Minors (Sename) between 1994-2018, which identify the components that must be changed for the system's permanent crisis throughout the post-dictatorial period to be faced.

The first law on minors dates back to 1928 and emerged after a process in which the State took responsibility for the social demands of the time. The process began at the end of the 1880s, when a strong demand arose—in the ruling class, among citizens and in political parties—that was contrary to the liberal model, leading to many social functions being transferred from the Church, or from private hands, to the State. This is how the first public policies referring to education, health, welfare and others were born, giving way to a new model of the State (Rojas, 2007).

In the context in which this first law was born, it is possible to say that there is a before, during and after period. This before period is characterised by the absence of an explicit and specific concern for children, except for the issue of social order. In the during period, the irregular doctrine of childhood is established as a legal framework, focused on children at social risk (abandoned and delinquent), in which authority is displaced

from the paternal figure regarded as *unfit* —characteristic of the poor and marginal population— to the authority of the juvenile judge, who acquires almost unlimited power of resolution in relation to minors (Couso, 2020).

From a historical perspective, civil society had taken on the needs of children even before the State (Andrade & Arancibia, 2010). NGOs, foundations, corporations and other entities gave shelter to the most vulnerable children. An example of this is the historical record of the first orphanage in 1751, which was born precisely from civil society (Delgado, 2001; Milanich, 2011; Schonhaut, 2010). Although there is a history of state contributions to these first organisations, it was not until 1967 that Law 16.618, which created the National Council of Minors (Coname), was enacted, giving formality to this relationship between the State and the *third sector* (Andrade, 2017). Until 1979, Coname was responsible for promoting and coordinating measures to provide assistance, protection and rehabilitation to vulnerable children, providing technical assistance, supervision and monetary support —or institutional support— to public and private agencies responsible for the care of children and adolescents (Rojas, 2017).

Within this legislative context, the Sename was created in 1979, gradually transferring to private institutions the work carried out by Coname up to that time. The functioning of Sename is that the institutions (now called collaborating organisations) take charge of children and adolescents, replacing the role of families considered dysfunctional in order to promote the adequate growth and development of *minors*. Since its creation, the State has then assumed a more active role in providing care with the support of the juvenile courts (Rojas, 2017). Likewise, Sename, as an organisation, is no longer responsible for the function previously performed by Coname, which, in Article 30, letter J, mandated to «sponsor and finance the organisation of permanent or temporary training courses for parents and educators of minors in an irregular situation, seminars, conferences and research by universities or other organisations».

In 1980, the process of modernisation of the State began in the country with the implementation of the neoliberal model. In this context, the government's social policy in general underwent a strong reform process. The institutional model created through Sename assumes the principles of subsidiarity and targeting. The system of subsidies was created and the centres that depended on the State were transferred to the private sector. In this way, the service took on a regulatory and supervisory function, for which it developed both technical and financial standards, creating the posts of technical and financial supervisors at the national level and in each of the regional directorates (Leiva, 1986).

Ten years after the implementation of Sename, in 1989 an evaluation and in-depth analysis of the results obtained was carried out. In general terms, the evaluation determined the achievement of standards of transparency in the transfer of resources to the private sector by means of a law of subsidies that fixed the amounts of subsidy per child and attended day, which made it possible to know how many children and adolescents attended and what the monthly amount transferred was to each collaborating institution according to the type of programme executed. However, the study showed a critical diagnosis: deficient infrastructure and insufficient personnel in the centres, inorganic growth in care coverage, problems in targeting resources and deficiencies in the care of minors in terms of permanence and re-entry into the system (Álvarez, 1994).

Regarding children and adolescents, the first government of the Concertación coalition ratified the Convención sobre los Derechos del Niño and promulgated it as a law of the Republic in August 1990. It also signed the World Declaration on the Survival, Protection and Development of Children and its Plan of Action, approved by the United Nations General Assembly at the World Summit for Children held that same year (Cavallo, 2008). These two events demonstrate a willingness to initiate a process of reform and a commitment to the international community, and to the country to make the legislative, institutional and programmatic changes that will make it possible to comply with and implement the principles and standards established in the CRC. The mandate of the CRC states that children should no longer be considered as an object of protection but as subjects of law (Cillero, 2018), which implies openly reformulating the country's legal, social and cultural structure, based on a guardianship model in which the State replaces parents when they cannot take responsibility for their children. The fulfilment of this mandate has been particularly problematic. It could be said that the unfulfilled promise of the CRC can only be understood in a process of incomplete democratisation that characterised the post-dictatorial years, in which the pillars of the neoliberal model have not been touched and where children continue to live in the greatest subordination (Pilotti, 2001). In this regard, it is important to note that the Committee on the Rights of the Child states that, regardless of the signing of the Convention in 1990, Chile continues to be governed by the guardianship system contained in the law on minors and therefore considers children to be objects of protection and not as holders of rights (United Nations, 2018, p. 18).

The Sename network is divided into three main areas: adoption, rights protection and juvenile justice. In this paper, we will focus on the last two areas, which are those with a residential regime.

The rights protection area of the Sename network is made up of agencies administered directly by Sename, including specialised reparation centres (Cread) and foster family programmes. Sename also administers projects adjudicated via public tenders to accredited collaborating organisations (hereinafter OCAs); in other words, by private or public non-profit entities that have four lines of action: residential centres, rights protection offices, diagnostic offices and outpatient programmes<sup>1</sup>—most of which are accessed through family courts and/or the public prosecutor's office.

The financing system for this Sename network is based, on one hand, on Chile's Budget Law, which currently fractionates amounts of estimated costs that OCAs receive, with respect to those received by agencies administered directly by Sename. On the other hand, each subsidy granted varies according to the Consumer Price Index, which generates inequality between the systems in terms of demand. As an example, the variation for 2018, with respect to the Cread's, increased «only by 2.2%, while for the collaborating agencies it increased by 11.78%» [translation is ours] (Centro UC de la Familia, 2017, p. 6).

If we look at the number of people served—that is, the *demand*—according to the latest Anuario estadístico de Servicio Nacional de Menores (Sename, 2018) in directly administered Cread, 1731 children were served. In contrast, in OCAs, 7971 children were attended to. This figure is supplemented by the number of children in the outpatient system of partner agencies (including children in the foster family programme and the intervention and preparation programme for the integration of children in alternative families), which was 178.984.

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<sup>1</sup> Outpatient programmes are as follows: outpatient protection programmes for disability, specialised programmes for intervention with adolescents who present sexually abusive behaviour, specialised programmes for intervention with adolescents who present sexually abusive behaviour, projects for children and adolescents with problematic alcohol and/or other drug consumption (24 h), specialised protection programmes for educational reinsertion (24 h), specialised programmes for homeless children and/or adolescents, specialised protection programmes related to the commercial sexual exploitation of children and adolescents, short intervention programmes, comprehensive specialised intervention programmes, brief intervention programmes, comprehensive specialised intervention programmes (24 h), specialised intervention programmes (coordinated by pie programmes), community prevention programmes, focused prevention programmes for children and adolescents whose rights have been infringed, legal representation programmes, and specialised abuse reparation programmes.



Now, according to the juvenile justice area, there is also the distribution of OCAs and direct administration centres (Estrada, 2018). Thus, 10.622 adolescents, young people and adults were served in outpatient programmes under the free-sector system administered by OCAs, and in direct administration centres (semi-closed centres), 686 adolescents, youths and adults attended during the same year.

As pointed out by López *et al.* (2011), there has been very little research and evaluation of the results regarding the implementation of care policies in institutionalisation processes. Moreover, many times, the interventions are terminated in advance, which is called breakdown or rupture; this occurs when

the authorities frequently decide to put a hasty end to a placement instead of carrying on with the foreseen plans, with all the negative consequences this may have for the different parties involved, especially for the children. Breakdown is a type of result that should be assessed in detail in order to prevent it, decreasing the known risk factors. (López *et al.*, 2011, p. 112)

Therefore, it is necessary to carry out a case study that contributes to making visible the results of the implementation of care policies, especially in Chile, a country where its dissolution has been demanded from the UN.

## Methodology

This document, based on a descriptive-interpretative study of different evaluation reports made to Sename between 1980 and 2018 that are public and accessible, intended to identify the profile of children and adolescents who are part of the system, the profile of the adults who accompany them, as well as practices of care, mistreatment and harm among peers and from the adults responsible for their situation in order to make progress in understanding the daily lives of institutionalised children and adolescents.

The first documentary source analysed as a central corpus was the Instituto Nacional de Derechos Humanos report (INDH, 2018); it is an unpublished study as far as it actively incorporates the voices of children. Based on this first categorisation, other evaluation reports were sought in order to reduce divergences. An analysis of six more reports were then incorporated into the characterisation: 1) a background report on the first evaluation of Sename carried out in 1994 (which has been incorporated from 1980 onwards); 2) an evaluation report on the direct administration programmes of the Servicio Nacional

de Menores from 1996 to 1999, carried out by the Ministerio de Hacienda as part of the evaluation of government projects in 2000; 3) a report by the Cámara de Diputados de Chile (2013) Informe de la Comisión de Familia which includes background information from the Jeldres Commission; 4) a report on the first national consultation of children and adolescents in residential centres: *Mi derecho a ser escuchado* in 2011; 5) a report by the UN Comité de los derechos del niño in 2018; and, finally, 6) a report of the analysis of the residential operation in centres dependent on the Servicio Nacional de Menores carried out by Policía de investigaciones de Chile (hereinafter PDI) in 2018 (table 1).

**Table 1**  
*Analysed Reports and Their Samples*

Analysed report	Year	Declared universe (national number of children and adolescents served)	Sample
Álvarez, J. (1994). La experiencia neoliberal en la atención de niños y niñas en riesgo social: 1980-1990. In F. Pilotti (Ed.), <i>Infancia en riesgo y políticas sociales en Chile: desarrollo y perspectivas del Servicio Nacional de Menores y su relación con las políticas sociales, la sociedad civil y el marco jurídico</i> (pp. 265-297). Instituto Interamericano del Niño.	1994	48.003 (up to 1989)	Written based on national universe
Ministerio de Hacienda. (2000). <i>Informe de evaluación de programas de administración directa Servicio Nacional de Menores 1996-1999</i> . Ministerio de Hacienda.	2000	18.048 (between 1996-1999)	Written based on national universe
Servicio Nacional de Menores (Sename). (2011). <i>Primera consulta nacional a niños, niñas y adolescentes de Centros Residenciales: Mi derecho a ser escuchado</i> . Sename.	2011	7898	Of the universe, 3964 children were surveyed, representing 50.18% of the total
Cámara de Diputados de Chile. (2013). <i>Informe de la Comisión de Familia constituida en investigadora para recabar información y determinar responsabilidades en las denuncias sobre hechos ilícitos ocurridos en hogares del Servicio Nacional de Menores</i> (Sename). Cámara de Diputados de Chile. Casen. (2015). <i>Encuesta de caracterización socioeconómica nacional</i> . Ministerio de Desarrollo Social y Familia.	2013	Does not declare a universe Consider a sample	Survey of about 400 children Background checks on 6500 children in boarding schools. Examination of the material conditions in 108 residences.
Instituto Nacional de Derechos Humanos (INDH). (2018). <i>Informe Misión de Observación a centros residenciales de protección de la Red Sename</i> .	2018	Consider a sample	A sample of 405 children and adolescents was used (250 girls and 150 boys corresponding to the national sex ratio) Between 8 and 17 years old

Analysed report	Year	Declared universe (national number of children and adolescents served)	Sample
Organización de las Naciones Unidas (UN). (2018). <i>Informe de la investigación relacionada en Chile en virtud del artículo 13 del Protocolo facultativo de la Convención sobre los Derechos del niño relativo a un procedimiento de comunicaciones</i> . Comité de los Derechos del Niño.	2018	14.245 (up to 2016)	Considers the INDH sample
Policía de Investigaciones de Chile. (2018). <i>Análisis del funcionamiento residencial en centros dependientes del Servicio Nacional de Menores</i> .	2018	9306	Does not consider a sample

The categories that were used for coding and analysis are described in table 2.

**Table 2**  
*Categories Used for Documentary Content Analysis*

Topic 1: Children and Sename	Topic 2: Sename and its practices	Topic 3: Resistance practices
Profile of children and adolescents in Sename	Personnel management practices Daily life practices/policies by the centre Relationship between adults and children Environment networking links provided by the centre	Complaint/resistance practices by NN Centre policies/child resistance Sexual abuse disclosure
Practice among peers	Connection with families Participation in the judicial process: the basis of the Sename system	

The documentary corpus contains all the reports that have been made on the institution from 1990 to date. This corpus was first subjected to a content analysis through which the aforementioned categories were constructed. Then, a process of comparison of those categories was developed. The results are presented in narrative form to answer the questions guiding the research: 1) Institutionalized Children: Who They Are and How Do They Live? 2) Care Networks, Families and Caregivers.

## Results

### Institutionalised Children: Who They Are and How Do They Live?

In the first evaluation of Sename carried out by Álvarez, published in 1994, it was noted that at least 40% of children and adolescents who were in the protection systems should not have been since they did not correspond to the subject of care that should be attended to by this type of institution, as they did not present serious problems of tuition or right infringement; that is to say, they were in a situation in which they could have attended daytime and outpatient programmes. This report is particularly important as it represents the first evaluative effort towards the service and therefore makes public the profound criticism of the way in which child protection had been carried out by the dictatorial regime. It is a report written in a democracy, which, based on the evaluative review of the period, can be seen as a baseline for the systematic criticism that the system will present and which has not been resolved so far. In fact, the problem of the lack of clarity of the profiles, detected in 1994, is referred to in the evaluation of the Cámara de Diputados de Chile (2013) *Informe de la Comisión de Familia* two decades later, in which it is established that many of the children who are currently under the residential regime do not correspond to the profile of the care that is provided [translation is ours]: «for example, children in a situation of high complexity in simple protection residences, young adults in protection residences, among others» (p. 191).

According to the research published by PDI (2018), those in charge of high complexity residential centres maintain their own informal perception of the residents' profiles, based mainly on the behavioural history of the children (throughout their stay in the residential system or with reference to clinical categories associated with the presence of a mental health or medical condition diagnosis); that is, the very category of what is called *high complexity* is used at their discretion and makes the situation of children in the residential system invisible, as for example, according to this report, 16.3% of children with disabilities are in non-specialised residential care facilities.

So what kind of children are in the system? What are the situations that warrant their entry into the residential system? Cámara de Diputados de Chile (2013) *Informe de la Comisión de Familia* elaborated an index to qualify the situation of the children and adolescents who were visited in order to generate an image for us concerning the situation

of the children and adolescents in the residential system. The index, composed of a series of factors presented below, was considered high with a value over 1, moderate with a value of 0.75 and low with a value of 0.5 (table 3).

**Table 3**

*Risk Factor Indicator in Cámara de Diputados de Chile (2013) Informe de la Comisión de Familia*

Dimension of the risk	Index	Weight
Physical integrity	Problematic use of drugs and/or alcohol, as well as in conditions of poly-consumption of toxic substances	High = 1
	Suffering from a medical condition and awaiting surgery or treatment	High = 1
	Being victims of intraresidential abuse or being in the care of the residence	High = 1
	Being medicated without a diagnosis	High = 1
	Maintaining sexualised behaviour as a result of abuse, despite receiving treatment	Moderate = 0.75
	No current medical history known to the residence	Moderate = 0.75
Practice among peers	Having a diagnosed mental health problem but not receiving necessary, appropriate and timely medical treatment	High = 1
	Finding yourself taking medication for an undiagnosed mental problem	High = 1
	No contact with people who have emotional ties	High = 1
Social integrity	Institutionalised by economic factors	High = 1
	Prolonged institutionalisation	High = 1
	No schooling	High = 1
	Institutionalised without a plan of intervention for the situation of serious violation of rights that led to admission to the residence	High = 1
	Uprooted from their commune or place of origin	Moderate = 0.75
	In a pre-entry situation for a period longer than 9 months	Moderate = 0.75
	Entered the system without a time limit set by the Family Court in the measure of protection decreed in their favour which ordered the suspension of their right to live with their parents	Moderate = 0.75
	Declared eligible for adoption without bonding	Moderate = 0.75
	No access to the social protection network	Low = 0.5
	With a significant level of educational underachievement	Low = 0.5
	In a situation of predeparture from the residence of protection without the term of the protection measure that ordered their entry into the residence of protection having been ordered by a competent judicial authority	Low = 0.5
	Institutionalised without receiving state contributions for their care (Sena-me subsidy)	Low = 0.5

**Note.** Based on the data presented in the Report of the Cámara de Diputados de Chile (2013).

In the 11 regions visited in the report, the percentages of high-risk children and adolescents ranged from 20% to 31.9%. This means that approximately one third of the visited children presented a high level of deficit in their basic needs to guarantee adequate survival and development in terms of physical, psychological and social integration.

Indeed, as mentioned by the INDH, this is a child population that presents a set of symptoms derived from mental health pathologies. A total of 68.6% of children in the Sename network aged 14 or over show symptoms of possible depression and are not in treatment. This coincides with the UN report and that of the PDI (2018), which established that there are 2554 residents diagnosed with some psychiatric pathology, that is, the equivalent of 37.3% of the population in this residential regime.

This becomes especially worrying if we consider that, according to the study carried out by the INDH in 2018, half of the children say that their mental health has declined, as they say that they do not enjoy or have lost interest in things or activities that they once found pleasant or entertaining, and half of them perceive that they have felt sad, depressed or pessimistic almost every day in the last two weeks prior to the study.

According to the PDI report, 80.4% of the total number of residences that operate under the Sename line of action have registered situations of intraresidential mistreatment, and in 58.3% of the centres, the situations of mistreatment were carried out by the same workers in charge of the care of the residents.

According to Smith (2020), the first point of care in a residential centre for boys and girls is not to harm them; that is, they are safe from any abuse within, beyond meeting the objectives such as family reunification. But how can harm not be done in a context of possible violence received? For this reason, the same author states that, «In a field that has long understood care and treatment as resulting from complex systems of relationships rather than the simple "delivery" of particular intervention packages, it makes sense to understand safety in a similarly systemic way that includes all participants in the milieu» (Smith, 2020, p. 157), in an environment called *institutionalised childhood*.

In some way, this situation of protection/cross-violence is repeated in the relationships between similars within the centres. On the one hand, care practices between children are described with respect to their companions who assume parental roles of support and containment, and on the other hand, psychological, physical and sexual violence by their peers is reported. Forty-six percent of participants in the survey conducted by the INDH indicated that they had been victims of psychological violence, identified

as insults, mockery, rejection and/or threats, *many times* by their peers. In 78.2% of cases, they indicated physical and/or sexual abuse committed by another minor living or not living in their current centre. This data is similar to the last public study of PDI (2018), which established that abuse between peers is concentrated in the direct administration centres in 79.7% of those registered at a national level. This situation is aggravated by the fact stated in the Jeldres Commission report and reiterated by the PDI that of the 240 centres visited nationwide, 44.5% of the children and adolescents live with adult residents as part of the population, who share common spaces with the children and adolescents, adding an additional difficulty to the already complex coexistence in an institutionalised facility.

Another important piece of information to consider in order to understand the children and adolescents living in the residential system is that, according to the INDH (2018) and PDI (2018), institutionalisation in Chile is fundamentally feminine since girls and female adolescents represent almost two thirds of the sample (63.5%). Likewise, most of the children and adolescents are children who have lived in more than one centre during their institutionalisation, as more than half of the children and adolescents (59.6%) have lived in another residence before. This last point is evidence of a precedent that the system had already presented in the Álvarez report, where successive re-entries were affirmed (between 1985 and 1988 re-entry increased from 26.6% to 28.2%) and which continues to be a critical and repetitive point in the successive reports that have been made in this respect (Ministerio de Hacienda, 2000). To this must be added that all documents reviewed state that children and adolescents remain for much longer than declared and expected (United Nations, 2018). In the last *Protocolos de actuación para residencias de protección de la red colaboradora de Sename* (Sename, 2016), it was established that between the ninth and tenth month should be considered as a time prior to the end of the cycle of residential intervention, and it is in this period that the pre-release phase is defined or if «it will be necessary to continue with other strategies and new deadlines justified on the basis of relevant technical arguments» [translation is ours] (p. 12). The PDI report (2018), however, established that there are 2603 residents who have stayed longer than two years, which is equivalent to 42.8% of the national population in the residential system.

In this regard, it is particularly worrying that, in 2013, the *Informe de la Comisión de Familia* reported that, in different regions, income was being made without declaring permanence. For example, in Arica, 79% of children were admitted «without a time limit» to the residences in that region. In Antofagasta, 80% of the measures were

«without time limit». In Maule, 75% of the measures were issued «without time limit». In Los Rios, «no time limit» measures were applied in 68% of cases, and, coincidentally, most children have suffered «long-term institutionalisation» [translation is ours].

In other words, which children does Sename serve/protect? Basically, Sename serves girls and adolescents who have entered and re-entered the system and whose mental health is affected by severe suffering that has not been addressed by the relevant professional teams.

It is noteworthy that the only report that refers to the socio-economic characteristics of children and adolescents is the UN report (2018), which makes it necessary to add to this profile that Sename has systematically dealt with poor girls and adolescents with significant economic needs that are not met by the residences either. A minimum element corresponds to covering the basic food and housing needs of the residents. However, according to the INDH diagnosis, 1.6% of the children's and adolescents' centres report that they are given one or two meals a day, which becomes even more worrying if we observe that, of this percentage, 3.1% correspond to infant and preschool centres. Of the 16.1% who declare (or report) that they are hungry in the establishment, this is sometimes the case for 10.5% and almost always for 5.6%. On the other hand, 4.8% of the children indicate that they do not have clothes in good condition. Despite this data in the Sename survey (2011), 84.40% (3345 children) state that they are satisfied with the basic needs provided in their homes, which could be related to the high level of economic vulnerability that children and adolescents experience prior to entering the homes.

With regard to infrastructure, according to the PDI (2018), 94% of Sename residences do not have the structural conditions, such as special nurses and facilities, to care for residents with a clinical profile and/or complex cases of different ages. The same situation was pointed out in the general evaluation of Sename by the Ministry of Finance in 2000, which stated that the infrastructure and resources invested were insufficient.

In the same way, according to the Jeldres Report, 28 centres maintain residential overcrowding, which corresponds to 11.7% of the total number of centres visited (240). This has an impact on the way in which the bedrooms are distributed, since according to the INDH, 37.2% of the bedrooms are not personalised by the children who live in them; that is, no elements such as photographs, posters or decorations made by them were found during the observation. Moreover, according to Sename (2011), 21.16% said they had no privacy in the residence hall.



Likewise, around 20% indicate that, in personal spaces, such as the bedrooms, they live with people who are younger than they are and of a different sex. In some cases, the distribution of the bedrooms favours personality characteristics over age or sex.

## Care Networks, Families and Caregivers

Regarding public services linked to the centres, the INDH notes that the services or programmes with the highest level of access are in the area of health: hospitals with 98% and Cesfam or clinics with 97.4%. However, the report of the Cámara de Diputados de Chile (2013) points out that the management of the health network is inadequate (hospitals and clinics) to offer expeditious attention to minors. In the investigation carried out by PDI (2018), it was reported that there is a shortage of hours devoted to this in the public mental health system, which has led to having to privatise some services due to the seriousness of the situation.

Another of the networks with which the residences are connected is scholarships or student support with 86.8%. Of the children consulted, 92.9% attended an educational establishment. This percentage rose to 96.3% for children under 14 and decreased to 87.9% for the group aged 14-17 years. However, the number of children in residential schools is comparatively low compared to the average population, and 19.8% are behind in school.

The policy of the centres restricts the way in which links between children and their families can be sustained, given that 40.4% of the centres place some kind of restriction on the visiting hours of families or significant adults. Visits during working hours, from 9:00 a.m. to 6:00 p.m. are exclusively allowed by 32.7%. With respect to the frequency of visits, 50% do not place restrictions on this, but the other half do, with 30% allowing no more than two visits per week. In addition, 20% of the centres do not have a private place to carry out visits.

According to the INDH (2018), there is a feeling of deprivation of liberty in terms of visiting policies and ties with the environment since 11.9% of children have limited opportunities to be connected with their families outside visiting hours. In addition to this UN restriction (2018), 24.1% of children have siblings in other centres, which obviously affects psychological stability and the repair of damage, according to the diagnosis. This same situation was denounced in the report of the Cámara de Diputados de Chile (2013) Informe de la Comisión de Familia in which it was indicated that «due to structural problems in the policy of protection of rights, siblings are separated, because they are separate households for men or women and by age» (p. 39).

Furthermore, as a policy of criminalisation 16% of the centres use the delay of family visits as a penalty, and, even more, 12.7% of them report that the suspension of visits due to bad behaviour on the part of the child is the norm.

The INDH report (2018) concludes that children and adolescents are highly isolated from their original family life and community development, which is justified by the fact that most of the centres are not located in the child's neighbourhood of family origin (57.4%), and 5.6% are not even in the same region, which encourages a possible uprooting, loneliness, loss of identity or «progressive abandonment» of the family. In the same vein, the evaluation carried out by the Ministry of Finance (2000) already indicated that, in the absence of centres within the urban population, the work of Sename was not very effective since it did not treat the child and his or her family together. This can be seen in children and adolescents participating in the first national survey which considered the voice of Sename residents (2011). Out of 3964 children, 65.31% (2588 children) stated that they were in contact with their families, and the rest, 30.9%, stated the opposite.

With regard to the involvement of children in their legal processes, it can be concluded that there is obstruction on the part of the centres with respect to the participation of children and adolescents in the judicial process since, according to the INDH (2018), 4.1% of the centres indicated that children and adolescents are not authorised to speak to the judge directly if they are required to do so. Only 32.1% of the children and adolescents interviewed said that they had the opportunity to speak to the judge who regularly visits the centres where they live.

According to the latest study conducted by PDI (2018), the institution has 8113 staff members. Of these, 5223 work in collaborating agencies and 2890 in direct administrative centres (CIP-CRC). Most of the care is provided by women.

Of these workers, the same report states that 82.9% of the centres do not meet the minimum professional profile for residential operation for the various modalities. This had been identified earlier in 2013 by the Cámara de Diputados de Chile (2013) and in the report of the Ministry of Finance (2000), which established that the staff was insufficient and not trained in psychosocial intervention, since the minimums required by Sename itself in its invitations to tender had not been met: 1) enrollment in the national register of care workers, 2) mandatory registration of all workers, 3) training by a competent authority, 4) ongoing training according to the type of care provided and 5) specialised training in working with children).

This aspect is also an element of continuity in the history of Sename since its inception. The report by Álvarez (1994) had already mentioned this and held the subsidy model itself responsible for it. This aspect has had a direct impact on the employment situation of workers in the residences, whose conditions were characterised by Álvarez (1994) as the following: a) low salaries, b) no training and c) a large number of children per staff member. This aspect remains unchanged today since as far as the ETD (direct treatment educators) are concerned, according to PDI (2018), 35% of the total number of centres at the national level do not comply with the minimum number for their operation (84 residences out of 240) and workers are required to perform a large number of non-specialised functions in care and repair, that is, «maintenance of the residence, cleaning and decorating of the premises; and, in general, functions that divert their attention from direct intervention with the residents. Therefore, the information gathered is consistent with the provisions of the Contraloría General de la República (2018)» (p. 230).

As for the lack of training, the situation is the same as in the period evaluated by Álvarez (1994). According to INDH data (2018), 97.4% of the centres declared that they had carried out staff training, but only 60.4% of the workers confirmed that they had received some training during the last 12 months. This was reaffirmed by PDI (2018), which mentions that 82.5% (198 centres of the national total) did not have an explicit training programme, nor a schedule.

According to the data collected by the first national Sename survey (2011), 78.0%, equivalent to 3088 children and adolescents, stated that they were satisfied with the treatment received at the residence. The same group was consulted by the INDH in 2018, and 77.4% of children and adolescents had a perception of well-being with regard to the treatment received from the educators who treated them directly (ETD) and from the professionals at the centre. With regard to the effectiveness of the assistance provided, 80.9% of those who demanded help from an adult to put an end to this situation indicated that they had received it; however, it is important to consider that the perception of the children is also mediated by a history of systematic admissions, in addition to the mistreatment and negligence that their condition of admission to the residential regime entails, all of which permeates the opinion that they give about the treatment received. In fact, more than half of the adult workers surveyed mentioned that they received abuse from children, predominantly verbal abuse. This is related to existing international antecedents, as stated by Harris and Leather (2011) in the United Kingdom, who state that «workers in residential settings (including youth residential treatment) were at the

highest risk of client violence of any social care staff». According to the INDH report, of the 23 reported cases of sexual abuse, 6.8% of the children indicated that it was committed by adults working at the time in the centre, while a similar figure corresponds to children who, having reported sexual abuse, were unable to specify the figure of the aggressor during the interview.

The above is particularly dramatic if we observe that, in addition, during the information gathering process, it was realised that both Sename and the Family Court carry out a supervision dynamic focused on administrative and formal matters of the intervention process, responding to observations, mostly of an administrative nature, where such supervisions are previously agreed upon with the residences, thereby distorting the sense of control that supervision has and thus making it difficult to uncover critical knots or deficient areas. In addition, the results of such supervisions are not widely disseminated to centre officials, a situation that is consistent with the provision of various reports, such as the project for the collection and consolidation of information on children in the residential system (Cámara de Diputados de Chile, 2013).

In addition to the explicit violations that have been observed, the residential system does not fulfil its role as a care facility since, as Álvarez stated in 1994, desertions and escapes continue to occur systematically. According to the investigation carried out by PDI (2018), 62.9% of the residences have registered cases of children who have abandoned the system (desertions and/or abandonment).

## Discussion

As pointed out by López *et al.* (2011), there is very little research and evaluation of the results regarding the implementation of care policies in institutionalisation processes. Some countries have closed children's homes, driven by findings that delayed cognitive development is associated with institutional care. However, a new point must be considered, which is abuse and violence within institutionalised settings, which may well be considered neglect (Sherr *et al.*, 2017).

The analyses presented here lead to the conclusion that Sename's residential system has been based on a permanent and repetitive critical structure that has not managed to meet the care and protection objectives for which it was mandated; on the contrary, has become a policy of permanent infringement of the rights of the children and adolescents

who must be integrated into these centres. In these terms, the subsidy system, which is the basis of the policy of the residences and which allows for their subsistence, appears to be a factor that generates problems which have been maintained throughout the entire period and which, even though they were born during the dictatorial period, have not been transformed in the democratic period.

In fact, it is well-known that, despite the systematic nature of the reports and the fact that a variety of actors, including judges, officials from the service itself, independent institutions and the police, have been given a different account of the system's problems, the system has remained in place, generating profound damage and placing caregivers in a very problematic position, in that they are also violated and can become abusers of the residents.

This was anticipated by the unanimity of the Juvenile Judges of the Metropolitan Region in an official letter to the Supreme Court in 1984, in which they expressed their criticism of the service and its general operation, and reported on the problematic aspects of the subsidies and agreements made (Álvarez, 1994, p. 19).

The above suggests that the system does not lack sources of information to be able to admit the need for a deep reform; there seems to be the political will to ensure that a system which cannot provide care remains. It is therefore necessary to carry out a thorough review of the system, which will involve ending the subsidy system and designing a care policy that places children and adolescents at the centre and meets their needs for care, security and development, and above all fosters bonds with caregivers (whether their families of origin, foster families or residential regimes) who can play that role.

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