
Policy Impact of the United Nations Convention on the Rights of the Child on Street Youth and Juvenile Delinquency in Chile

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Introduction

Chile, a democratic country, bases its legal system on the Civil Law, inspired by Napoleonic Law, in turn informed by Roman Law. On the other hand, the US legal system is based on the Common Law. The Civil Law is a codified legal system that establishes a unitary, orderly, and systematic set of rules and legal principles. The Civil Law commands, for instance, that crimes or civil rights must be explicitly written in order for

the judge to decide cases based on these codified provisions. This legal system implies that to implement a public policy, this policy should be based on a codified law, and any legal transformation is required by law (Frase 1990). Many of the laws passed in Chile in the last 15 years have transformed the policies aimed at the well-being of children and adolescents. Therefore, we posit that to understand Chile's approach to the development of public policies that impact children and adolescents, it is necessary to understand the impact of different legal instruments in the Chilean society, such as the United Nations Convention on the Rights of the Child (UNCRC), as well as various laws that have been influenced by the UNCRC.

The purpose of this chapter is to describe and discuss the deep impact that Chile's signing of the United Nations Convention on the Rights of the Child (UNCRC) in 1990 had on the country's policies involving social services for children and adolescents, and for those who come into contact with the juvenile justice system. Despite these progressive policy changes, youth continue to experience a number of problems. In this chapter, we focus on two of these problems by describing the extent to which youth homelessness and juvenile delinquency impact Chilean youth and the larger society.

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Chile Signs the United Nations Convention on the Rights of the Child: Policy and Service Delivery Implications

In 1990, Chile signed the United Nations Convention on the Rights of the Child (UNCRC), which sought to profoundly modify the way societies treat and view children socially, culturally, legally, and economically (UNICEF 2004). In Chile, signing the UNCRC had particularly important legal implications for children. Prior to signing the UNCRC, Chilean laws affecting children were based on the premise that these existed to defend and protect minors. There was not, however, a way for the law to distinguish between, for example, a child who needed protection from abuse versus a youth that broke the law. In both cases, the law would allow for deprivation or restriction of freedom and did not have a time limit on the sentence, and despite their differences, cases were seen by the same courts. Furthermore, the child did not have the ability to exercise his/her rights, because the child had no rights.

The Judge for children and adolescents practiced in Minors Courts, played a parental role, and was the person who decided what was best for the child. In fact, children and adolescents were understood as “objects of rights” versus “subjects with rights” (Oyarzún et al. 2008). That is, under an “objects of rights” perspective, workers in the social services and judicial systems saw the need to interpret the children’s needs and opinions by an adult who then determined what needed to be done with the child. This perspective placed children’s voices in a passive and irrelevant position in legal proceedings. At the time, children in the legal system were referred to as “minors in irregular situations” whereby the authorities needed to look after the well-being of the child. With the signing of the UNCRC, this concept was criticized and authorities were called upon to envision children in terms of “subjects of rights.” Under the “subjects of rights” perspective, children are to be considered people, not objects, and may therefore exercise rights, and perhaps more

importantly, society must ensure that their rights are maintained. As a result of these discussions, suggestions were made to create Family Courts with the expectation that the children would not only have rights but also that the law would look after the family as a whole as opposed to disparate individuals with compartmentalized problems.

Family Courts, however, were not created until 2006. This means that up until only a decade ago, matters such as divorce, family violence, adoption, abuse, and parental visitation, for example, were seen by different courts, such as Civil Courts and Minors Courts. This meant that children and their families experiencing some or all of these problems had to present themselves to different judges and regularly had to tell their stories and relieve the pain of their experiences. Furthermore, different judges handling the different problems could, and actually would, make decisions that were contradictory further tearing families apart. Finally, in 2006, Law No. 19.968 (Biblioteca del Congreso Nacional de Chile [BCN] 2016a) was passed, which created Family Courts. The purpose of Family Courts was to ensure that all of the children’s matters would be attended by considering the family as a whole. In addition, under this new legal approach, the term “minor” was no longer used. Instead, the individual became to be referred to as “child” or “adolescent,” language that is more consistent with the UNCRC framework.

Legal changes did not stop in 2006. In 2007, Chile implemented Law No. 20.084 (BCN 2016b), which created a new legal system and programs for youth whose rights have been violated versus those who break the law. Family Courts continued their responsibility on civil matters that affected families including attending infants, children, and adolescents whose rights have been violated. On the other hand, youth between 14 and 17 years of age who broke the law would be seen by the Criminal Courts (*Juzgados de Garantía*, in Spanish) in a room specifically set aside for juveniles. The new law transferred the responsibility of 14- to 17-year-old youth who broke the law to the criminal juvenile system and

recognized the youth as “subjects of rights” where the punishment is “based on the principles of equality and protection, the different legal and social situations of the adolescent’s life and as a person in the process of development becoming worthy of greater legal protection of their rights” (Berríos 2011, p. 164). Prior to Law No. 20.084, older adolescents were treated as adults and therefore in a more punitive manner. That is to say, adolescents who committed a crime would be sent to Minors Court (later on called Family Court) at which time the judge would decide on the youth based on an analysis conducted by a psychologist regarding the extent to which the youth had acted with discernment or his/her ability to use good judgment. The concept of discernment was applied exclusively to adolescents between the ages of 16 and 17, where the rest of the children who were under the age of 16 were considered unfit to plead (or punish); that is, they were not responsible before the law.

If it was determined that an adolescent had acted with discernment, the adolescent would be processed through the adult criminal justice system and the case would be sent to the Adult Criminal Court. In cases where it was determined that the adolescent had acted without discernment, the adolescents was sent to a juvenile detention center or probation program. One of the serious deficiencies of this system is that juveniles could not count on having a public defender, so the case would fall into the hands of the Family Judge who would determine the sentence. Moreover, detention centers and probation programs did not have clear and uniform guidelines regarding the type of intervention for the juvenile. This lack of uniform guidelines resulted in considerable variation between adolescents with similar cases. Therefore, new legal reforms came to provide solutions to these problems.

Social Services for Children and Adolescents After UNCRC

Chile has approximately 16,634,603 habitants (INE 2012) where 26 % are children between 0 and 17 years of age. Only about 2.2 % of the

children are in the child welfare and juvenile justice programs. The National Service of Minors (SENAME or Servicio Nacional de Menores, in Spanish) is a state agency that was created in 1979, under the Ministry of Justice, and is in charge of financing and supervising the child welfare and juvenile offenders’ programs. Its mission is to “contribute to the promotion, protection, and restitution of children and adolescents whose rights have been violated, as well as accountability and social reinsertion of adolescents who violated the law through programs directly implemented or through service agency collaborators” (SENAME 2016). SENAME’s mission involves three areas: (1) Area of Protection of Rights (Law No. 16.618) (BCN 2016c) is in charge of advocacy, protection, and restitution of children and adolescents whose rights have been violated; (2) Area of Adoptions (Law No. 19.620) (BCN 2016d) is responsible for matters involving adoptions; (3) Area of Juvenile Justice (Law No. 20.084) (BCN 2016b) is responsible for the accountability and social reintegration for juvenile offenders. Each department seeks to enforce the laws that are related to their particular area of responsibility.

SENAME serves over 93,000 children and adolescents of which approximately 15 % corresponds to law violators and the remaining 85 % corresponds to those whose rights were violated (SENAME 2014). SENAME funds, through grants, private nonprofit organizations to provide services to these youth. SENAME itself has 19 detention centers, 17 semi-closed centers, and 6 centers of specialized reparation. In other words, the state of Chile has outsourced and left in the hands of private companies the care and supervision of children and adolescents—whose rights have been violated. This includes precautionary measures with adolescents who have violated the law and are under probation or community services.

Today, SENAME’s structure defines two main approaches to attend to the childhood and adolescent social demands based on the two groups: Children whose rights have been violated (e.g., child abuses, youth homeless) and adolescent who have broken the law. SENAME has the



Fig. 22.1 Case flow diagram of child social services Law 16,618

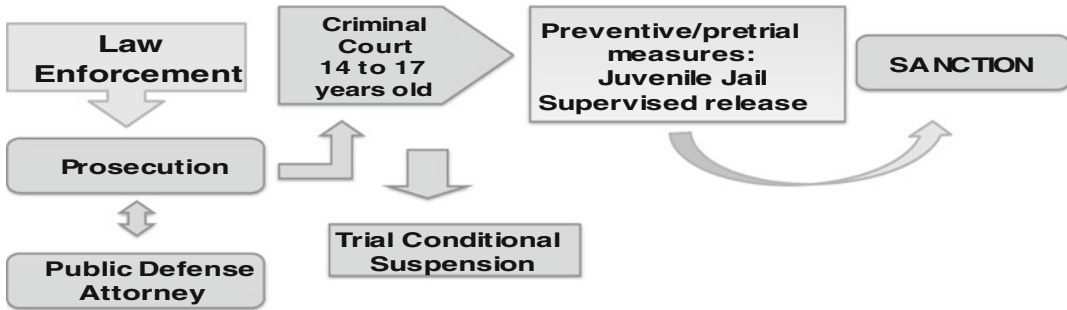


Fig. 22.2 Case flow diagram of juvenile justice system Law 20,084

direct administration of CREAD; however, most of the child protection programs are only supervised by SENAME, because these programs are run by nonprofit agencies. Different laws and different courts cover these two groups of children and adolescents. Figure 22.1 displays the current flow of a child or adolescent through the social service system in Chile.

In the last 10 years, Chile has faced deep changes in the legal system and the ways by which the state understands children and adolescents' needs. Nevertheless, these transformations have not been sufficient to prevent children and adolescents from experiencing significant problems. Figure 22.2 shows the corresponding flow through criminal judicial system of a child or adolescent who breaks the law. Youth homelessness and juvenile crime are two such problems that we discuss next.

Youth Homelessness in Chile

According to UNICEF, in 2006 there were 40 million homeless youth in Latin America (UNICEF 2006). In Chile, in 2004, the SENAME published a study that estimated there were 1039 homeless youth in the country (SENAME 2004);

the majority are found in the Metropolitan Region (where the capital, Santiago, is located). In a 2013 study conducted by the Metropolitan Observatory for Street Children and Youngsters in Santiago, Chile, approximately 785 youth were identified to be living on the streets, 303 in the capital, Santiago (Águila 2011; Pino 2013; Valenzuela Vergara et al. 2013). The first step in acknowledging and identifying these street youth is to have a standard definition of what the term “street youth” signifies. In 1983, a group of Inter-NGOs in Switzerland classified the most commonly used definition of “street youth” (Dryjanska 2014). Their definition states that a street child or youth is “any girl or boy who has not reached adulthood, for whom the street (in the broadest sense of the word, including unoccupied dwellings, wasteland) has become her or his habitual abode and/or sources of livelihood and who is inadequately protected, supervised, or directed by responsible adults” (Valenzuela Vergara et al. 2013). While this definition serves a broad purpose for defining street youth, many have contested this definition for its lack of acknowledgment on the child’s ability to choose his or her own path of life. Furthermore, standard definitions have distinctly separated “children on the street” from “children of the street.” “Children on the street” refers to those who earn their living on the

street, through begging or various forms of work, but return to their families at night; on the other hand, “children of the street” are those homeless children who both earn their living on the street and sleep in the streets, while not relying on their family for any form of assistance (UNICEF 2007).

In Chile, nearly half of all street youth maintain daily contact with their families but still sleep on the streets. While these children remain in contact with their family members, the family typically does not offer the youth much protection or assistance. Interestingly, street youth will often return to the family home when important events arise, such as a baptism or graduation (Pino 2013; Valenzuela Vergara et al. 2013). Because of this phenomenon, the Metropolitan Observatory for Street Children and Youngsters in Santiago, Chile, which oversees outreach to these youth throughout the country, has agreed to use the definition that states, “a child or adolescent who lives on the street as one who spends the night on the street at least four times per month” (Valenzuela Vergara et al. 2013).

The outward appearance of street youth does not fit the stereotypical image of a homeless youth (Pino 2013). They are hard to distinguish from other children because they try to wear nice clothing in order to escape discrimination (Águila 2011). Nor do these children often sleep in one specific area of the streets. For example, 51 % of the youth surveyed slept in more than one place over the last month, including friends’ homes and abandoned houses, or stores on the sides of highways (Águila 2011). Roughly 74 % spent at least one night in their own home in the past month, while only 26 of the 303 children spent more than 15 days of the past month sleeping on the street (Pino 2013; Valenzuela Vergara et al. 2013).

Half of street youth left their homes due to experiencing abuse with 14 % experiencing sexual abuse within the home (Pino 2013; Valenzuela Vergara et al. 2013). Other reasons include emotional and economic deprivation, absence of a caregiver, discrimination in the family, occurrence of a traumatic family incident, or a process of identification with peer drug users (Valenzuela Vergara et al. 2013). Specifically, many of the

children leave their homes as a form of escape from what they experience on a daily basis.

Most homeless youth are 14–17 years of age and male (66 %). About 35.5 % of this population comes from single parent households (majority consisting of a single mother) and 18.5 % from two parent households. Roughly 64 % have 1–3 siblings and 35 % 4 or more siblings. Interestingly, 81 % of these siblings are not homeless (SENAME 2004). Homeless youth have much less education than non-homeless youth. This is of great concern given that with less education there exists a higher probability that the young person will commit theft, be vulnerable to commercial sexual exploitation, and will engage in begging to survive (Ossa 2005). In this population, school dropouts occur mostly between 12 and 14 years of age, with a higher percentage in 5th and 6th grades. Only 36.5 % of homeless youth are connected to the educational system (Ministry of Justice 2014). The consumption of drugs is also a common occurrence in this population. More than 50 % of homeless youth who were provided services by specialized programs consumed marijuana and alcohol; 20 % pasta base (an unprocessed form of cocaine), and 12 % consume solvents, inhalants, and/or cocaine (Ministry of Justice 2014).

If we compare the numbers of registered homeless youth in Chile to those of other Latin American countries, the incidence of homeless youth in Chile is small. Nevertheless, the smaller magnitude of the problem does not reduce its complexity or the pain that these youth experience (Méndez 2010). The situation of homeless youth involves various dimensions so that any attempts to create a common profile would only result in confusion (Lucchini 1996; Méndez 2010). Studies on the subject tend to associate the homeless situation with normal living standards that are progressively deteriorating both in families and in the communities that children live in. Additionally, the existence of social protection systems, which have not developed at the required speed in order to deal with the social contact, and an uncertain economy makes very difficult for the children and their families (Alexandrescu 2002). Moreover, they are

vulnerable to all forms of exploitation and bad treatment. For these adolescents and their families, it is a situation of social exclusion. Consequently, fundamental services such as education and health care are currently not equipped to serve and support these families and adolescents. Thus, these adolescents cannot be easily protected, which threatens their capacity to fully participate as members of society. The exclusion of these children can come from their families, the school, the community, the government, civil society, the media, and the private sector (UNICEF 2006). The characterization of this population suggests that homeless youth tend to have low self-confidence and are impulsive and distrustful. They are, however, adolescents who quickly develop the skills to survive on the streets (Méndez 2010).

Often times, the resentment that develops from this level of deprivation and inequality aggravates feelings of violence, which results in aggressive behavior. These adolescents show a tendency of being emotionally unstable and, on occasion, depressed. Frequently they utilize their fantasy, boosted by the use of drugs and alcohol, as a way of avoiding reality; nonetheless, and despite the harm to their physical and psychological health, they have a high capacity to recover from their problems. Nevertheless to better understand their situation, descriptions of these children and adolescents must be read having the contextual elements in which the children have developed in their previous stages, and the limited opportunities they have had to resolve crisis in their young lives (Guerra 2010).

The problem of these homeless youth is a result of social marginalization (Mansilla 1989). Homeless youth have made the streets their primary habitat, having cut or significantly reduced ties with their family. In some cases, their families have abandoned these children. In other cases, they are subjects of a process of self-expulsion, which is to say, they have decided to leave their homes because they have been pushed or forced out because of specific circumstances (Ordóñez 1995). It has been found that in these children's homes, there is a lack of basic living necessities (e.g., food, water, shelter,

clothing). If the family cannot provide the necessary support to maintain the family, it is conceivable to imagine that the child would perceive life in the street as being better than home. For these children, their family of origin represents a "no place," a space in which the internal dynamics, structure, and conformations make live unbearable for the adolescent and a place where they no longer wish to be (SENAME 2004; Ordóñez 1995). Not all children, however, with similar stories decide to leave their homes; making the decision of self-expulsion depends on the individual characteristics of each child and how they perceive their situation (Méndez 2010).

The family system of the homeless child is often characterized by high levels of conflict; sexual, physical and emotional abuse, economic insecurity, substance abuse by parents, separation, and lack of communication. In general, homeless children's families present characteristics of life situations that are complex and fitting a definition of "multiple problem families." The social context in which they are immersed are characterized by psychosocial risk factors and chronic sociocultural deprivation, which reinforces the cycle of marginalization. The crisis that these families are in is mainly marked by situations of economic and cultural poverty.

It should be noted that a child does not go out into the street overnight. The steps taken when moving from the house to the street suppose a process where there is a combination of diverse characteristics: (a) family difficulties; (b) the spatial/social movement of the family or residential changes; (c) characteristics of the urban space which means the distance between the home and the place where the child spends the day and the efficiency and cost of public transportation; (d) street pressures (meaning the dangers and possibilities of survival in the presence of other children); (e) the initiative of the child and the balance of their experience in the street; and finally (f) the relationship with the street and the image the child has of the street, which is not the same in every society, cultures, and social layers. For the homeless youth, this is a component of their everyday life (Guerra 2010; Lucchini 1996; Guerra et al. 2011).

Because poverty, history of abuse, and school failure are associated with drug use, it is important to adequately diagnose the level of drug consumption by homeless youth given the drug's effects on the central nervous system. For instance, the chronic use of inhalants, which continues into adulthood, causes medical and psychiatric damage. The consumption of drugs is a product of situations of social stress, emotional and contextual, and encouraged by peer pressure. The circumstances form a group of reference, which is really strong for homeless youth, especially in the setting where the family bonds are absent and the need for mutual defense and protection is high. Use inhalation in a group of peers strengthens their bonds and confirms their sense of belonging. Although the consumption of drugs forms part of the practices utilized by the homeless children, according to Lucchini (1996), "it would be foolish to underestimate the playful dimensions and the challenge to adults who have the collective consumption," meaning the consumption of drugs as a practice is also used to affirm their collective identity and as the means of social integration into the group (Forselledo 2001).

Lastly, it is important to emphasize that this group is generally vulnerable to sexually transmitted diseases, a product of the consumption of drugs and unprotected sexual activity used as a mechanism for survival (Ossa 2005; Rew and Horner 2003). Commercial sex is a way to obtain refuge, food, drugs, and money. The possibility that the youth have participated in sexual activities increases when they have been victims of physical and sexual abuse, when they have been a part of criminal acts, and present with suicide attempts. Investigation suggests that the majority of homeless youth have been victims/survivors of sexual violence in multiple occasions while being in the streets, showing up more frequently with women (Kudrati et al. 2008).

Specialized Programs for Homeless Youth

The state's answer to this societal problem has been to create specialized programs for the protection of homeless youth as established by Article 4 of Law No. 20.032 (BCN 2016e). These programs are directed to design interventions to repair the harm these youth have experienced. In the case of homeless youth, it is SENAME that is responsible for generating policies that affect them. Presently, homeless youth are cared through seven specialized programs, six of which are located in the Metropolitan Region and one in the Region of los Lagos, south of Chile. The rest of the attention to homeless youth is provided by non-governmental organizations.

Programs aimed at homeless youth focus on the implementation of family prevention techniques within the homes of high-risk youth to finding those youth already on the streets more stable living situations. Since its institution in 2007, the Metropolitan Observatory for Street Children and Youngsters has organized and unified multiple organizations throughout Chile to focus on improving the living conditions of the country's street youth. Some of these organizations include the state agencies and nonprofit private organizations (Pino 2013; SENAME 2014). Under the direction of the Metropolitan Observatory for Street Youth, these organizations have combined to provide a unified effort toward decreasing the prevalence of street youth throughout Chile. Their focus is not only on helping youth already living on the street, but also on providing families with tools to prevent youth from seeking refuge on the street.

In the public governmental sector, the two entities involved with the Observatory include the National Minors Service (SENAME) and the Ministry for Social Development (Valenzuela Vergara et al. 2013; SENAME 2014). Both

organizations keep the well-being of the disadvantaged at the forefront of their work in the Chilean society. Within SENAME, the Rights Protection Offices work with the idea to cultivate a culture within Chilean society that recognizes and respects the rights of childhood (SENAME 2014). Similarly, the Ministry of Social Development includes a mission statement that desires to contribute to the design and application of policies and programs regarding social development, especially those designated to eradicate poverty and offer social protection to vulnerable people and groups, while promoting their social mobility and integration (“Nuestra Misión”). Each of the entities involved with the Metropolitan Observatory for Street Children seeks to protect those most vulnerable in the society to a high standard, and for this, they are well suited for developing and maintaining an effective intervention to lower the rates and stop the growth of the street youth population throughout Chile.

Within the non-governmental organizations (NGOs), the following organizations have joined the movement with the Metropolitan Observatory for Street Children: Hogar de Cristo Foundation, Don Bosco Foundation, SERPAJ, and the Asociación Chilena Pro Naciones Unidas (ACHNU) (Valenzuela Vergara et al. 2013). Each of these organizations has a common theme of dedicating their work to the development and advocacy of vulnerable and impoverished populations in Chile (Nonprofit Enterprise and Self-sustainability Team, NESsT 2000; Salesian Missions 2013; SERPAJ Chile 2015). For instance, Hogar de Cristo maintains the mission statement of providing assistance to the marginal poor, including abandoned children and youth (Nonprofit Enterprise and Self-sustainability Team, NESsT 2000). Specifically for their programs for abandoned children and youth, Hogar de Cristo contracts with the national government, SENAME, to offset the cost of its programs provided for 1385 children. Hogar de Cristo gives the homeless and abandoned children served through their programs shelter, food, clothing, and education (Nonprofit Enterprise and Self-sustainability Team, NESsT 2000). The NGO SERPAJ

promotes the promotion and defense of peace and human rights through using the methodology of Active Nonviolence for the Resolution of Conflicts, as well as guaranteeing the dignity, justice, and liberty of people, especially those who are marginalized and impoverished (SERPAJ CHILE 2015). For those children who have experienced the devastating impacts of trauma, Don Bosco Foundation provides counseling, meals, housing, and schooling (Salesian Missions 2013).

Many of the organizations listed above work directly with street youth, specifically NGOs that provide services to street youth on a daily basis. For example, Hogar de Cristo, located in Santiago, offers numerous programs for vulnerable adults and children, and they offer specific programs for those children at risk of living on streets (Hogar de Cristo 2011; Nonprofit Enterprise and Self-sustainability Team, NESsT 2000). They especially focus on the prevention of violence and abuse against children. Of the various programs they offer, many are intended to stabilizing the life of a child living on the streets including a foster care program, a community-based prevention program that includes sports, arts, and the whole family, as well as a crisis intervention program. Lastly, as a direct outreach to the street youth themselves, Hogar de Cristo seeks to end their stay on the streets by promoting their rights and developing their protective factors. Hogar de Cristo looks to provide a child with a stable home life, preferably in their family and community of origin in order to give them a more healthy development within the same networks in which they grew up.

Similar to Hogar de Cristo, the Don Bosco Foundation of Chile seeks to help families recover from traumatic situations they have encountered, while many of the programs have the goal of keeping street youth unified with their families (Salesian Missions 2013). The Don Bosco Foundation is a nonprofit organization that stems from the Salesian Congregation of Chile (Flores et al. 2009). The Foundation works directly with high-risk youth and families dealing with high vulnerability or social exclusion. Many of the children in the programs offered by the organization have issues with drugs or parental

instability and violence and have most likely spent some time living on the streets (Flores et al. 2009).

The Don Bosco Foundation offers eleven different programs intended to help stabilize and maintain the family structure. Among these programs are family counseling opportunities, regular meals, housing, and schooling for the children so the families have a foundation on which to rebuild their lives after the traumatic event (Salesian Missions 2013). Many of the families involved in the programs are of high risk who may have the possibility of losing their children to life on the streets (Flores et al. 2009). The Foundation also distributes between 1000 and 2000 meals per month in the school system for youth most in need. For the street youth specifically, the organization runs three houses throughout the metropolitan area that house and feed approximately 120 children and youth every month. The Don Bosco Foundation has a strong presence in the metropolitan community and is well recognized for its work with disadvantaged, high-risk families and street youth.

As the final example of a direct practice organization working with street youth in Santiago, Chile, the ACHNU or the Chilean Association for the United Nations provides a strong network of programs that reach out to street youth in the area. This organization hopes that in addition to providing services for the street youth, they can help reconceptualize the meaning of the term “street youth” (Asociación Chilena Pro Naciones Unidas 2014). By changing the term from “niños de situación de la calle” (children in street situation) to “niños callejeros” (street children), the organization feels they are better able to embody the difficulties faced by the children and their families on a daily basis without the negative connotation of the previous term. The goal of the organization is to protect, promote, and defend the rights of youth in Santiago according to the standards set by the United Nations.

As for programs offered by ACHNU, it offers a wide variety of programs for at-risk youth and youth living on the streets aimed at protecting the rights of youth by intervening on unhealthy family dysfunction that may be causing the youth

to flee to the streets (Asociación Chilena Pro Naciones Unidas 2014). ACHNU offers family development programs that teach parenting skills as well as looks to rebuild the familial bond between parent and youth. Furthermore, for children and youth who no longer have a network of people to return to after life on the streets, the organization attempts to help them build a network within the local community so they can eventually achieve an independent lifestyle of autonomy. Within the community, ACHNU works to strengthen and build up the local resources and programs that affect street youth. These help to strengthen the protective factors surrounding a youth’s success in society (Asociación Chilena Pro Naciones Unidas 2014). Lastly, in November of 2014, ACHNU partnered with Nokia to implement a program titled “Conéctate” (“Connect Yourself” in English) (Nokia 2014). The Conéctate program works with young people who have limited resources to help them “find employment and reach their potential” (Nokia 2014). With this program, in addition to those directly aimed at improving the situations of the street youth, ACHNU has the capacity to reach a large number of street youth in the Santiago area, while also helping to develop the local resources and organizations to give them hope for a better future.

Youth Violence and Delinquency in Latin America and Chile as Public Health Problem

According to the 2013 United Nations against Drug and Crime (UNODC) report, violence lead the causes of death among persons between 15 and 44 years of age in Latin America, committing close to 157,000 murders a year, occupying a sad first place as the most violent region on the planet. The majority of these deaths occurred in cities and was the result of interpersonal violence (not of armed conflicts or guerrilla warfare). When examining the 2013 homicide rates (most recently available data for most countries in Latin America) (amount/number of homicides per every 100,000 residents), the country with the

largest rate was Honduras with 84 deaths for every 100,000 residents, followed by Guatemala and Venezuela (each 40/100,000), Belize (45/100,000; 2012 data), and El Salvador (39.8/100,000). In contrast, Chile reported 3.6 deaths for every 100,000 residents (United Nations Office on Drugs and Crime 2015 [UNODC]).

According to the Pan-American Health Organization, a “normal” crime rate varies between 0 and 5 homicides for every 100,000 residents; a “sensitive” rate would be between 5 and 8 homicides for every 100,000; and an “epidemic” rate would exceed 8 (Kliksberg 2007). From this perspective, the situation in Latin America is critical and indicates an epidemic problem of homicides and regional crime. Even though intra-regional variations exist, when the levels of violence, crime, and rates of homicide are reported, it is possible to confirm that the violence and crime are important health problems in Latin America. According to the Regional Human Development Report 2013–2014 (PNUD 2013), Chile is listed as the country with the lowest homicide rates in the region and low levels of victimization by theft. A discussion of the between-country differences that may explain these differing rates of violence in general, and homicides in particular, is beyond the scope of this chapter.

Social Violence and Social Exclusion and Its Impact on the Chilean Youth

Although the magnitude of crime and violence can be estimated by the “rate of homicides,” this indicator fails to show how violence has been established in the region and how it is a part of the everyday life in large urban Latin American landscapes. The urban growth process and modernizations performed by governments in Latin America during the 1980s and 1990s, of which Chile did not escape, primarily impacted youth and adolescents (Imbusch et al. 2011), through underemployment, lack of social network, mistrust, and illegal drug trade (Auyero et al. 2014). Although those who were

adolescents during those years have grown and become adults, the impact of that time has resulted in a generation of marginalized neighborhoods and a legacy of deteriorating living conditions.

Now, Chile is one of the countries in Latin America where the problem of violence and crime are of a lower magnitude: according to UNODC, Chile is found within the countries of the region with the lowest homicide rates (3.1 per 100,000) (UNODC 2013). As well, when juvenile delinquency is measured in numbers or arrest for minors versus the total number of detentions, it does not have disproportionate quantities; according to data from the District Attorney’s Office, there were 13,914 detention or juvenile offender, which represent less than 10 % of total detentions in the country. Statistics from 2014 show that 49,131 juvenile offenders were entered in the Attorney General’s Office, fined under Law 20.084, which reflects a decrease of 5 % when compared to rates of 2013 which were 51,273 (Defensoría Penal Pública 2013, 2014).

When Chile addressed juvenile delinquency prevention, they have done so by prioritizing universal prevention strategies (Blanco and Varela 2011), which have resulted in being less progressive since less than 1 % of the youth population under 18 years of age has been in conflict with the law. On the contrary, studies in developing countries and in Chile have demonstrated that juvenile offenders usually come from families that have experimented socioeconomic struggles and that live in precarious urban areas with high-risk factors (Farrington 1997) and thus strategies focused on prevention could be more effective in preventing juvenile delinquency.

As previously mentioned, the ratification of the UNCRC forced the Chilean authorities to revise the laws concerning infancy, childhood, and adolescence to reflect a model where the penal code for youth emphasizes minimum intervention and maximum social well-being. This aspect implies that once the youth is arrested, the public prosecutor presents charges in the Criminal Court in a specialized room for juvenile offenders. According to the law, this room should have a judge, public prosecutor, and defense attorney

specialized in juvenile crime. Unfortunately, the caseload has prevented this principle from being fully implemented and most of the time the juveniles face regular judges from the Adult Criminal Court (Santibáñez and Alarcón 2009). This shortcoming turns more complex when the youth characteristics are examined, because these adolescents are affected by several psychosocial problems. Most juvenile offenders have been expelled from school, present with 3–4 years of school delay, and consume drugs and/or alcohol (Reyes 2014; Instituto de Sociología 2007; Mettifofo and Sepulveda 2005). The most painful aspect is that 7 out of 10 children, who are in juvenile prison, have been victims of child abuse (Reyes 2014). Moreover, the actual juvenile criminal system, like the adult system, focuses on the seriousness of the crime and prior records to apply sanctions, regardless of the psychosocial needs of the adolescents. Judges from Criminal Courts do not have a psychosocial team that provides them with advice about the adequate sentence for the youth as the judges from Family Courts have. Sadly, the criminal juvenile justice system does not consider the youth psychosocial needs in the sentence.

The same law indicates where the juveniles must serve their punishment ordered by the Criminal Court, which can be juvenile detention centers, centers semi-closed, and probation programs. The most severe sentence cannot exceed 10-year prison term. In probation modality, there are regular probation programs, special probation programs, community service, and alternative release. SENAME is responsible for the direct management/administration for only the closed and semi-closed centers in the country. Youth who must serve their sentence in a probation program of an ambulatory nature must do so under programs run by private nonprofit organizations. These instances are monitored and funded by SENAME.

When reviewing the technical guidelines issued by SENAME, its suggested interventions lack specificity based on the characteristics of the juvenile delinquent population. For example, there is no differentiation between a youth who perpetuates sexual abuse from a youth who gets

arrested shoplifting. Neither do the guidelines explain the difference between intervening with a youth with severe psychiatric disorders from one who does not present with mental health problems of such magnitude. The intervention for a youth who has committed a homicide does not seem to vary much from those for juveniles who commit other crimes. Attention to sex and gender issues is also practically nonexistent even though the circumstances under which male and female adolescents commit crimes differ (Larrain et al. 2006; Reyes 2014). The lack of specialized knowledge implies the adoption of a model of intervention without the technical or scientific knowledge that supports it. This means that during the time the law has been implemented it has relied significantly less on technical expertise and more on political wills and as such lacks a long-term vision.

Discussion

SENAME's division into each legal body has influenced how in administrative terms issues that affect childhood and infancy are addressed which has been through a compartmentalized vision about the social problems that affect families. Although children are visualized in a familial context, the intervention focuses on the children and adolescents and not the whole family. A clear example can be seen in the case of family violence where programs focus on the partners and not on the child abuse that exists within the family dynamic. In this context, the adults are on one side, mainly the women, who might receive psychosocial support, whereas the children may or may not receive attention from specialized programs offered by the SENAME. This occurs because for children to receive services, an order from Family Court is needed. Furthermore, while the victims may receive services from these programs, programs tailored to perpetrators are practically nonexistent. And while experts on family violence state that domestic violence is a relationship problem that affects each and every family member, public policy responds by offering care that is split

among family members rather than comprehensive holistic care for the whole family.

SENAME's compartmentalization has resulted in lack of communication among its entities with a corresponding gap in knowledge and in interventions to prevent at-risk youth from engaging in risky behaviors. The absence of dialogue within the same service is even worse when it comes to communicating with other governmental entities.

Unfortunately, the country has undertaken a palliative approach toward addressing problems children experience. Families are clearly alone in the educational process and upbringing of their children, and feel strongly criticized by public authorities when they seek help. This is not the best approach to take when the complexity of juvenile delinquency and youth homeless require that agents/workers from different entities, the public and private systems, collaborate to successfully reduce violence and help families with the social reintegration of the adolescent.

Only in 2014 did SENAME obtain funding to provide specialized training to vocational personnel yet there still is a lack of appropriate infrastructure that would allow the adequate implementation of programs as required by law. Sadly, 4 of each 10 juveniles that completed their sentence in closed centers, semi-closed centers, and probation programs received a new penalty by the justice department within the 12 months of their graduation (Espinoza et al. 2012).

Conclusion

The UNCRC produced profound legislative changes in Chile, which overtime has contributed to deep changes in public policy for children and adolescents. However, as we show in this chapter, despite these changes, many social problems affecting Chilean children and their families remain to be properly addressed. In the Chilean culture, it is expected that families are able to solve their own problems resulting in circumstances where the most vulnerable social groups are overstressed with the demands of caring for their children while also facing considerable

economic challenges. Today, Law No. 20.084 (juvenile offenders) and Law No. 16.618 (child rights protection) are under review. We expect legal modifications will include the biopsychosocial approaches to understand the complexity of the youth behavior to guide their social reintegration.

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