# Institutionalization of Children in the Czech Republic: A Case of Path Dependency

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*Despite the development of alternative forms of care, international and domestic pressures for change, and over 20 years of efforts at deinstitutionalization, the Czech Republic has one of the highest rates of institutionalization of children in Europe (UNICEF, 2012). The continuing reliance upon residential care for children by the child protection system, particularly for children who are disabled or of Roma descent, demonstrates a case of path dependency in which a solidification of the system's response is rooted in its past. Understanding the impact of historical precedence is key to reforming the current system.*

Key words: *Path dependency; child protection; residential care; institutionalization; children in care*

With the withdrawal of Soviet forces in 1989 and the consequent establishment of the Czech Republic in 1993, the newly independent nation was challenged to redefine its political, economic, and social realities. The country moved rather swiftly in terms of economic change as it went from a socialist to a mixed economy, enlarging its market-based features and divesting the state of most of its controls in less than five years (Potůček, 2001). Equally fast were the political changes,

with the implementation of a representative democracy with the first elections held in 1990 (Potůček, 2001). The activities of domestic reform, though, occur within a larger geo-political context which offers integration into the international community but also obligates the country to international standards of, among other issues, human rights and care for children.

As a member nation of the United Nations (UN), the Czech Republic is responsible for a number of legal instruments regarding rights and care for children. Chief among them are the Convention on the Rights of the Child, of which the Czech Republic was a successor, as Czechloslovakia had ratified the Convention in 1991 (UN, 2012a) and the Convention on the Rights of Persons with Disabilities, which was ratified by the Czech Republic in 2009 (UN, 2012b).

A number of changes have been implemented in recent years in order to be compliant with international agreements. The country has a large number of children (about 23,000) (UNICEF, 2012) in institutional care, an issue that has drawn considerable attention from the international community. The UN has regularly criticized the Czech government for insufficient progress toward the transformation of public care: current critique is focused on the use of "baby boxes" (a system that facilitates safe and anonymous drop-off of a child at a hospital or other care facility) and the relative unavailability of foster care (Committee on the Rights of the Child [CRC], 2011).

The European Court of Human Rights has issued a judgment citing violations against the rights to private and family life in a case where children were removed from parental care (*Wallová and Walla v. the Czech Republic*, 2006), and in another class action case (*DH and Others v. Czech Republic*, 2007), the court found the state unlawfully discriminated against Roma children by placing them in segregated, special needs institutions, regardless of their abilities.

Thus, the reform of child protection in alignment with international policy has been slow, and the country finds itself struggling with the second highest (behind Kazakhstan) rate of institutionalization of children in Europe (UNICEF, 2012). The reasons for this are both structural and cultural. The current system is complex in its bureaucratic structure and firm in its authority. There is a bias toward institutionalization, particularly for Roma children and children with disabilities

embedded within it, all of which can be understood within the analytical framework of path dependency.

According to path dependency, the current state of a system is owed to past events and decisions. "A dynamic process whose evolution is governed by its own history is 'path dependent'" (David, 2007, p. 1). Decisions are made and structures are built in a way that eventually becomes deterministic. That is, patterns of a culture are repeated over time and in such a manner as to become habituated. However, the path dependency model does not imply the inherent inevitability of a given outcome or path. In fact, it requires that along the way, options for variant outcomes exist, but "a degree of narrowing, a closure of some previously feasible paths" (Bennett & Elman, 2006, p. 252) occurs, and these potential alternative paths are abandoned. The selection of the given path may be due to investments that have been made to the path (Bennett & Elman, 2006; David, 2007), e.g., experts of an existing institution are unlikely to seek change that would undermine their positions, or changing the system (creating a new institution, for example) may be, or appear to be, too costly. Over time, a path that may initially have been a functional adaptation can become inefficient and dysfunctional but continue nonetheless. Because the path is institutionalized and alternatives have either been severely weakened or extinguished, the path's legitimacy remains despite its dysfunctionality.

Residential care for children in the Czech territory has a long tradition, one of over 200 years, and its dysfunctionality as a system of care has been known within the country for at least 50 years (see Langmeier & Matejček, 1963). The practice has persisted in spite of widely variant political and economic histories from the Austrian Empire through to present day. The following discussion offers a review of the historical antecedents that have shaped the current system.

## Historical Antecedents of the Current System

*Austrian (later Austro-Hungarian) Empire (1700s-1918)*

This period is typified by a paternalistic and expanding authority over children and codification of the primacy of the family. Under the *Codex Theresianus* (1766) children became the legal property and responsibility of the family. The police and

the church became the key actors related to the implementation of these norms. The police offices established special sub-departments for tracing homeless children and children from poor families; in Prague this practice remained in place until the 1930s. Churches were responsible for the registration of children and the placement of children born outside of marriage into shelters (Kränzl-Nagl, Riepl, & Wintersberger, 1998). At the same time, this period gave rise to the institutional care for children. For families deemed unsuitable or unable to provide care, residential services were established to care for children. As in many other European countries, these institutions were typically charitable entities.

One of the first institutions for poor people (*ústav chudinský*), *chudobnice u sv. Bartoloměji,* which was established in 1505 in Prague, started providing care for children in 1782 after the special commitment of the Emperor Josef the Second (Obec Pražská, 1891). By the late 19th Century, more than 50 institutions (20 of which were in Prague) were in operation with about 4,500 children in care (Schmidt, 2012). These institutions were governed at a local level and placement into care was the responsibility of various authorities; some children were within the jurisdiction of corrections and others were under medical authorities (for children with disabilities).

Industrialization transformed legal regulations toward a more detailed description of parental responsibilities in 1819 when the first Civic Code was established, and rules related to the placement of under-age people in conflict with law, as well as to the responsibility of parents for the inappropriate behavior of their children, were introduced. In 1863 a new law related to poor children was established in order to oblige local authorities to provide care in a systematic way.

Intensifying nationalism increased the "politicization" of children and centralization of the child welfare system (Zahra, 2006). The network of institutions rapidly increased: by 1900 in Brno, the second largest city of the Czech Republic, there were two correctional institutions for minors in conflict with law (*polepšovna)*, more than 20 special schools, approximately 30 shelters (*sirotčinec*), and poor children with disabilities were placed into units for people with deformities (*ústav mrzáčků).* During this period, a Bismarckian, corporatist model of social policy also developed (Večerník, 2008).

In 1905, the Ministry of social affairs organized unions of orphan care (*sirotčí spolek*) and introduced the norm regarding a legal order of decision-making in the case of child placement out of the family (Schmidt, 2012). Primarily, these unions brought action judgments made by courts about such placements, and the Ministry prescribed the function of general guardianship (*hromadní poručenství*) to these unions. In addition, these unions monitored substitute families, provided family placement for children put into residential units, supported employment-seeking activities for young people out of parental care, and brought into action legal aid for parents in the case of divorce and other complications (all these functions were fixed in the first commitment of unions, which was issued in 1914). Orphan care unions typically operated on a local level and were established by various charity organizations: in some regions (South Morava and Prague), there were a lot of such unions, and in others, like Ostrava, such unions did not appear until the 1910's.

The system of child protection was separate from the educational system and local services *Kinderschutzampt* supported families with children under 3 and provided medical counseling and day care until 1914. While efforts were underway to integrate different services into a common system, the final reorganization was not completed. In sum, this period established the origins for a number of paths for child protection: institutionalization, family supports, and substitute family care, and continued experimentation in these various forms indicate that an optimal system had not yet gelled.

*The First Republic (1918-1939)*

This period witnessed a reversal of sorts regarding institutional services. Placement into families was a legal priority and departments of care for minors (*okresní péče o mládež*) were established in 1921. The Act of child protection deemed substitute family care, particularly by kin, as the dominant placement strategy. Relatives of children born out of marriage were eligible for an allowance, and approximately one-fifth of such families received these benefits. In Brno, from 1923-1938, more than 160 children annually were placed into substitute families, and another 100 were placed in foster care homes and special settlements for foster families (Schmidt, 2012). The

model of substitute family settlements was adopted from the Hungarian practice and presented the form of family care: couples without biological children accepted children in their homes with professional assistance. Between 1926 and 1939, six of these settlements cared for between 26 and 48 children each (Schmidt, 2012). In Brno three children's homes were built during this period, but family placement, either in family-of-origin or in substitute families, was the goal (Schmidt, 2012).

While settlements, kinship care, and foster care were available, these services were directed toward children who did not have disabilities. Children with medical disabilities, as well as Roma children, were categorized as unsuitable for such care, and institutional care was the priority for such children. For instance, in 1928, 3855 children with disabilities resided in 41 institutions in Czechoslovakia (Schmidt, 2012), and the number of children in these institutions did not significantly change until the 1940s (Schmidt, 2012). Assessment centers arose during this period, along with professions to implement these services, although they were not widespread. After issuing Law no. 117 (1927), which deprived Roma people without permanent housing of their civil rights, the practice of removing Roma children and placing them in residential settings become a mainstream approach. As Roma were seen to inherit asocial behavior, the medical model was legitimized for intervening with Roma children.

Support for families and alternatives to institutionalization dominated this period. But, for children with disabilities and Roma children, the path became largely set. Due in large part to the eugenics movement (Šimůnek, 2007), professionals were trained in a medical model that focused upon disability, diagnosticians established their expertise, and large investments were made in building institutions to house the diagnosed charges.

*The Protectorate (1939-1945)*

During this period, Czechoslovakia was occupied by German forces. The number of minors monitored by authorities more than doubled; parental rights were limited, and courts established procedures for custody of minors (Schmidt, 2012). The Protectorate broke the formation of crisis intervention established by the laws of 1931 and introduced regulations

aligned with the legal priorities of the Third Reich. The practice of family reintegration declined, the number of children placed into substitute families was reduced, and placement into institutions increased. Residential care was provided by charity organizations and governed by German authorities. After the war, a medical focus was maintained: adding to the previous special schools, new ones were opened (e.g., in Brno from 1946 to 1947, five new special schools were established) and the system of residential care for children under three within the Ministry of Health was established (Schmidt, 2012). Thus, during this period, the march toward institutionalization, especially for children with disabilities, continued.

*Socialist period (1948-1998)*

The communist coup d'etat of 1948 ushered in Soviet rule, which would last until 1989. Under the Soviet system, the public's role was foregrounded. It was argued that children were to be raised in the best interest of the socialist state: it was in "the public interest to prevent such situations as breaches of upbringing and lack of parental control of children which leads to the incomplete internalization of socialist morality" (need citation here). During the early years, centralized authority and large-scale institutions were introduced and key forms of substitute care, foster care, family settlements, and kinship care were effectively abolished (Truhlárová & Levická, 2012). As a result, the number of institutions and the number of children in them grew dramatically throughout this period, with 166 institutions housing 10,752 children in operation in 1947 and 760 institutions housing 45,058 children in 1962 (Český statistický úřad 1934-1959 & 1960-1970). The two categories of children targeted by these changes were Roma children and children with disabilities. As part of Soviet efforts to industrialize and urbanize in the 1950s (Castle-Kanerova & Jordan, 2001), the Roma population was forced to resettle, and soon more than 95,000 Roma resided in Czech cities (Canek, 2000/2001). The Roma were marginalized and viewed as unable (due to language and culture) to properly socialize children into Soviet society. For children with disabilities, the growth in care was astounding. By 1962, 428 institutions served this population (Schmidt, 2012).

Beginning in the 1960s, efforts of democratization within the country spread to child welfare. Professionals in the field voiced concerns, and scholars such as Zdenek Matejchik published studies exposing the negative consequences of institutional care. Largely as a result of these efforts, reform measures were introduced and foster and kinship care again emerged as viable alternatives to residential care. By the early 1970s, all regions began recruiting and training foster care families.

Despite such efforts, by the end of the decade, institutional care remained monolithic and by 1990, more than 19,000 children were institutionalized (UNICEF, 2012). As indicated, this was largely due to the increasing use of assessment centers along with streamlined practices that facilitated the removal of children from parental care and hampered the development of alternative approaches to care. The dueling forces—advocates for reform and their counterparts—remain at odds with anti-reformers, succeeding largely for children with disabilities, those in conflict with the law, and Roma children. Underlying this conflict over reform was the complexity of the system. Assessment centers were under the jurisdiction of the Ministry of Education, foster care was under the jurisdiction of the Ministry of Social Affairs and Labour, the Ministry of Health oversaw certain categories of youth, and the judicial system was heavily reliant upon experts within the system who tended to favor residential care.

## The Current Child Protection System

Substitute care (*náhradní výchova*) appeared as a legal concept by the end of the socialistic era with Act no. 114 (1988) On the Powers of Authority in Social Security (*O působnosti orgánů České republiky v sociálním zabezpečení*), which permitted immediate removal of children from families and placement into substitute care prior to a court judgment. While this aspect (placement prior to a court judgment) was repealed in 2004, substitute care remains commonplace. Experts distinguish between family substitute care (*náhradní rodinnou výchovu*) and residential care (*ústavní náhradní výchova*), although legally there is no such distinction. The various forms of substitute care include more than ten types of institutions for children, as well as various family-type placements, including four

models of foster care. Adding to this complexity, and owing to the Soviet system, is that the oversight and management of children in care is both national and regional, with regional authorities holding direct responsibility for children in public care in their jurisdiction. At the national level, three ministries, Health, Education, and Labour and Social Affairs, each have responsibility over particular types of placements. For example, infants are under the auspices of the Ministry of Health, while children with special needs are under the Ministry of Labour and Social Affairs.

These bureaucratic features confound effective data collection and reporting, and the number of children in public care is unreliable. Official estimates indicate that approximately 23,000 children are housed in over 200 institutions (LIGA, 2007; UNICEF, 2012). Younger children are disproportionately likely to be reunified with their biological families (52%), but lengthy terms in care are common: 61% of children brought into care will age out of the system, and the average time in residential care is 14.5 years (LIGA, 2010).

The decision-making mechanism for placement into care is rightfully legalistic but presents a number of complicating features in practice. In cases of maltreatment, special social services for child protection (*sociálně-právní ochrana dětí*) initiate the process, which then proceeds through the courts. For primary custody, the court must rule within seven days, but judgments for permanency actually take much longer (Rychlík, 2008). In 2004, the average ruling took 274 days to place children into foster care and 232 to place for adoption. As they await judgment, most children reside in residential care. In cases in which the court has not issued a ruling, authorities are not required by law to reunify children with their biological families. Thus, these children may remain in residential care absent permanency judgment.

For children over three, decision-making regarding institutional care is a two-step process: first there is a decision whether or not to place a child into residential care, then, if residential care is selected, an assessment center indicates the most appropriate type of institution. (Children under three are placed in a baby home until the court's permanency ruling.) Legally, the court is bound to consider residential care as a last resort. "Until the court has voted on child placement into an

Table 1. Children in Residential Care

| Type, Year | Target Population | Number of Institutions | Number of Children |
|---|---|---|---|
| Under the authority of the Ministry of Education, Youth and Sports | | | |
| Children's home, 2010 | Children between 3 and 7 years old | 151 | 4704 |
| Children's home with school, 2010 | Children older 7 | 31 | 787 |
| Correctional schools, 2010 | Children in conflict with law | 33 | 1534 |
| Assessment centre, 2010 | Children older 3 who should be placed in residential care settings | 14 | 853 |
| Boarding school, 2009 | Children with disabilities | n/a | 742 |
| Under the authority of the Ministry of Labour and Social Affairs | | | |
| Short-term placement (shelters), 2010 | Children who have been noticed as appropriate for placement into substitute families | n/a | 844 |
| Centres for minors in conflict with law, 2008 | Young people under 15 | n/a | 172 |
| Centres for children with multiple disorder of development, 2010 | Children older than 15 | n/a | 4924 |
| Correctional institutions, 2008 | Minors over 15 in conflict with law | n/a | 229 |
| Under the authority of the Ministry of Health | | | |
| Units for infants, 2010 | Children under 3 | 34 | 2077 |

institution, all options of family placement should be identified and analyzed, the final possibility of child placement into a children's home of family type should be evaluated" (§ 42, Act No. 359/1999). However, in practice this is not the case. The court has only seven days to decide whether reunification or public care is warranted, thereby prohibiting thorough assessments of the family environment. Judges rely heavily, and in the majority of cases (98%) rule according to the recommendations of social services that are likely to opt for residential care (Ministry of Labor and Social Affairs [MLSA], 2011).

During the legal process, children are appointed either a candidate for judge or an officer of the court to serve as their primary guardian to represent their interests. These officers also tend to prefer residential care as opposed to reunification. Parents may represent themselves in the courts, but often lack the skill and education to adequately and effectively present a viable case regarding the families' interests. In sum, there is not a safety net to protect families once the case is brought to authorities and to help them navigate through the legal system.

Along with the courts, assessment centers wield a great deal of power in determining placements for children over three. There are 14 assessment centers operating within each of the 13 regions of the country, with Prague housing two centers (Dvořak, 2007). Each center has at least three groups of children, often grouped by age and sex, with each group typically consisting of between four and eight children, in order to facilitate close observation by staff. Assessment centers are charged with observing children for a period of eight weeks and then determining the optimal care environment given the child's developmental needs. The assessment centers focus on three major issues: children's special needs and the impact of disability upon development and behavior; asocial behavior and the risk of criminality; and children's emotional and behavioral ability (e.g., risk of reactive disorder) to join a family environment (Dvořak, 2007). Assessment centers employ the highest rates of helping professionals, with seven to twelve specialists, compared to other residential institutions with two to three helping professionals. Assessment center staff include developmental psychologists, special education experts, and speech therapists.

The mission and quality of assessment centers are the subject of fierce criticism among some experts. In 2000, monitoring by Ladislav Zamboj, a committee of the Council of Human Rights, identified numerous cases of violations of children's rights within the centers.

> Two-beds rooms have the square not more than 7-8 square meters, there are two narrow made of iron beds and no other furniture. Windows are blocked by bars from external side and can be open only by staff permission. In larger spaces more children are placed. If the child would like to go to toilet, they should notify a caregiver with a knock on the door, and if they haven't achieved success in knocking, they need to relieve themselves on room floor. (LIGA, 2007, need pp.)

In addition, publicity in the press about children running away from centers to escape their conditions triggered public debate about the quality of care provided by the centers (Zbyněk & Novák, 2008).

Further critique focuses upon the orientation of staff. Assessment procedures focus upon children's developmental and educational deficits. This deficit model of assessment is common throughout Eastern Europe and problematizes child functioning in ways that strengths-based assessment techniques do not. Moreover, staff do not assess children in their natural familial or educational settings. So, children's functioning is assessed independent of their social context. This lack of appreciation of systemic functioning of a child combined with the aforementioned deficit model predisposes decisions towards institutionalization. The order of the process also impacts placement decisions in that when the court has already determined residential care as the custody solution, the assessment centers function merely to determine the type of residential care placement. These factors have been key to the substantial increase of the number of children in institutional care over the past 20 years.

In addition to the flaws regarding placement, observers levy concerns regarding the conditions of the institutions. International organizations' monitoring of homes for young children has produced reports of conditions that severely compromise the well-being of children. Children are raised

in groups of ten with minimal contact with adults. They are rarely under the care or supervision of a psychologist or other helping professional other than nurses. The nursing staff have primary contact and responsibility for care and are frequently rotated, thus limiting the children's ability to develop secure relationships with their caregivers.

The untenable conditions are not confined to infant and children's homes, as other investigations found such problems in institutions throughout the system. In 2001, the Children's Rights division of the Advisory Board of Human Rights (*Sekce pro prava dětí, Rada vlády pro lidská práva*) reviewed 42 institutions. They found that four of the homes limited family visitations to one meeting per month, in violation of regulations. Three homes had more than ten children in a bedroom. A significant number of children reported being physically abused by their peers (10%) or caregivers (10%). They also concluded that staff were poorly screened. Caregivers had not passed the required psychological assessments, and administrators failed to gather the required information regarding criminal violations and mental health status of their staff. Monitors also noted high burnout and turnover rates of staff, and no support programs existed for staff in order to prevent such problems.

A final area of concern regards the circumstances for placement. Less than 14% of children are placed due to abuse (Ruxton, 2012). The majority of children (over half) are placed for social (e.g., homelessness, poverty, etc.) or educational (e.g., failure to attend school) reasons (Eurochild, 2010; Mulheir & Browne, 2007). An equally significant number (close to 50%) are placed in residential care due to a medical condition or disability, which are typically beyond the families' ability to provide proper care (Eurochild, 2010; Mulheir & Browne, 2007). There is also an issue of ethnic disproportionality in the public care system. Roma children are disproportionately in residential care, comprising less than 5% of the general population but one quarter of the institutionalized population (Eurochild, 2010).

## Reform

Prompted by public concerns, by international law, and by criticism, both foreign and domestic, the Czech government

passed several acts aimed at improving child protection in the early 2000s. The Act no. 359/1999 On the Social and Legal Protection of Children (*Zákon o sociálně-právní ochraně dětí*) established the general organizational framework for communication among services, parents, and children during crisis intervention. Special local authorities, SPOD (*organy sociálně--právní ochrany dětí*), were designated to identify families at risk, collect information among various actors, treat parents, provide options for the right to be heard, and initiate legal action. The administration was defined with local authorities in districts and regions subordinated under the special department in the Ministry of Labour and Social Affairs. In institutional terms, the structure repeated the previous socialist order of child protection, but without the ideological component. The law identified crisis intervention and after-crisis placement of children as the main activity of local authorities, focusing on intervention with minors who are in contact with asocial adults, children from vulnerable families, and infants and toddlers of mothers in jail. Such prioritization inhibits primary prevention, as services are directed to children's situations when they are already in the crisis stage.

In 2002, Act no. 109 (*Zákon o ústavní výchově*) was issued. The Act's principal purpose is to comply with the guidelines of the CRC and echoes much of its language: determination regarding custody and care must be made in the best interest of the child, and maintaining children with their biological families is the highest priority under the law. Initiating new forms of care and restructuring some services have occurred as a result. The law provides additional guarantees regarding rights of children in institutions: the rights to be in contact with friends and relatives, express their own opinions (and with respect to their dignity?) and that local authorities are to provide oversight of these guarantees. As the criticism was aimed largely at the number of children in institutions, the new laws established restrictions for residential care. Homes are to be limited to six groups of no more than eight children each, and new services are to be implemented.

One such service, the Klokanek Project, is offered by a nongovernmental organization, the Foundation for Children without Protection. The Klokanek Project consists of a network

of short-term foster placements while children await the initial court ruling. Over 1300 children have been placed in one of thirteen of the project's centers in the country. Six of the centers are houses with gardens, and in the others, children live in flats with caregivers. The majority of children (80%) return home to be reunited with their biological families.

Critics, however, have charged the system as inefficient, noting that half of the children who remain under care are eventually placed in assessment centers because the foster care staff cannot cope with their behavior (Dvořak, 2007). Other measures have met with similar mixed results. For the past 20 years, 2350 families have received early intervention services free of charge which are designed to keep children with impairments in their homes (Hradilková, 2009). These services include parental counseling and guidance on child behavior and development, as well as direct therapeutic services targeting developmental issues for the child. Currently, the country has seven early intervention centers, employing 62 professionals and serving over 600 families (Hradilková, 2009).

Despite their success, early intervention centers are limited, underfunded, and unable to meet demand. The centers are only able to provide services to children with audio and visual impairments, so the majority of children with disabilities, such as intellectual disabilities, are placed into residential care. Another similar service, which began in 2004, is the children's center (*Detské centrum*) that provides services to children with special education needs. There are five Detské centrums in the country that offer short-term placement with families, counseling for parents, and therapeutic care for the children (Schneiberg, 2007). But again, the availability of services fails to meet demand, and the majority of children with special education needs are placed in residential care.

Despite the early intervention efforts and new regulations on residential care, the rate of children placed in institutions and the number of institutions has actually risen over the past two decades. The number of children placed into institutions, as compared to those placed in alternatives to residential settings, provides evidence of the continuing priority of public institutional care. While seven centers of early intervention with a staff of 672 professionals provide regular assistance to 624

children with disabilities (Hradiloková, 2009), two thousand infants and toddlers are placed into 39 units for children under three with more than a thousand specialists (Český statistický úřad, 2008). Similarly, education for children with disabilities remains more focused on boarding schools than integration into mainstream schools: in the stage of primary education, 35,000 children with Special Education Needs (SEN) study at mainstream schools (and 38,000 at boarding schools), but this number of children decreases during secondary education— approximately 5,000 continue study at mainstream schools, 14,000 at boarding schools, and a significant number of children over 10 are placed into settings of social care (Český statistický úřad, 2008).

Probation services assist fewer minors in conflict with the law than correctional institutions do: 600 adolescents are monitored by probation services, while more than 2,000 minors are in jails (Probační a mediační služba Czech Republic, 2009). Only two centers, in Ostrava and Brno, assist Roma children in connecting with substitute families, and Roma children remain the majority of students in boarding schools (more than 60% of users are Roma children) (European Roma Rights Center [ERRC], 2011).

Subsequent action by the Czech government has produced some changes in an effort to increase providers of care for looked-after children as well as families at risk. Act no. 108, on the Social Services (Zákon o sociálních službách, 2006), introduced rules for non-governmental organizations (NGOs) and community services that provide services for families and children. The purpose of the law is to establish a system of regulation for these services and presumably encourage the development of NGO activity to support families. The law established that organizations must get a license for each type of service activity. But, it also limited the possible number of licences to be issued. So, while organizations theoretically should be within a common network of mutual cooperation, they are actually in competition with each other for licenses. In addition, organizations end up implementing particular programs versus implementing a set of activities. For example, one service prepares looked-after children in institutions for independent life, and another provides support after graduating such institutions, instead of having an organization offer both

types of programs. Experts from the non-governmental sector consider that this regulation has inhibited the development of consistent and comprehensive child protection services.

Table 2. Placement in residential settings from 2004-2009

| Type of institution | Year | | | | | |
|---|---|---|---|---|---|---|
| | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 |
| *Under authority of the Ministry of Education* | | | | | | |
| Children's home | 4657 | 4867 | 4869 | 4815 | 4618 | 4739 |
| Special correctional institution for children in conflict with law (*výchovný ústav*) | 1544 | 1479 | 1420 | 1404 | 1430 | 1546 |
| Assessment centre (*detský diagnostický ústav*) | 494 | 501 | 537 | 516 | 705 | 793 |
| Boarding school for children with SEN | 555 | 743 | 795 | 724 | 674 | 742 |
| Total | 7250 | 7590 | 7621 | 7459 | 7427 | 7820 |
| *Under authority of the Ministry of Health* | | | | | | |
| Settings for children under three (*kojenecký ustav, detské domovy pro detí do trech let*) | 1871 | 1847 | 1673 | 1741 | 1981 | n/a |

Under tremendous external pressure, the most sweeping reform effort came in 2009 with the National Action Plan for Transformation and Unification of the System of Care for Children at Risk (NAP) (*Národní akční plan k transformaci a sjednocení systému péče o ohrožené děti na období 2009 až 2011*, MLSA, 2010). NAP placed the Ministry of Labour and Social Affairs as the central authority to coordinate an inter-ministerial effort to change the system. NAP is focused on networking and case-management as core elements regarding the new organizational design of child protection: ostensibly both vertical and horizontal dimensions of child protection should be transformed towards better interdepartmental cooperation (MLSA, 2010). The plan emphasized the necessity of investigating

regional experiences in order to specify individual plans for each region. The plan indicated the insufficient level of data collection within the system and called for special actions targeted to reform the existing approach towards it. Within the plan, the ideology of child protection stresses the idea of a healthy family "which is able to provide its own needs and solve issues independently" as the most desirable outcome of intervention (s.10). Procedures of decision-making, as well as the monitoring under services, are not mentioned as priorities for the transformation of the child protection system. To date, the ministries continue negotiations regarding elements of NAP, and the system has remained largely unaffected by NAP.

According to the League of Human Rights (LIGA), a key factor for this failure is that the system has produced merely "cosmetic" rather than substantial change (2010). LIGA found that despite the weighty expense of institutionalization (e.g., in financial terms, more than five to seven times that of substitute care), the judicial system's bias toward institutionalization and a deficiency of specially trained service providers (e.g., while the number of families in need of services increased, there was a decrease in the number of trained social workers) continued unabated. LIGA's central concern, though, regards the lack of any real power by the Ministry of Labour and Social Affairs, indicating that it is merely a position of title, noting that the Ministry possesses no authority to implement any of the plan's elements, and that the other two ministries (Education and Health) refuse to submit to systemic changes. In a recent review of the Republic's progress in human rights, LIGA (2011) repeated its previous assertion regarding NAP's tragic inertia, indicating that the residential care system remains much the same since NAP's inception.

As stated, reforms in the child welfare system were initiated in large part to reduce institutionalization, but they have clearly been ineffective for certain groups of children, particularly for Roma children and children with disabilities. Despite its profound human and financial costs and inefficiencies and despite the international critique of the Czech child protection system, institutional care remains the primary mode for care of children removed from parental care. We conclude that the system is culturally entrenched and that a path dependence model offers an explanation for the sluggish repair of the current system.

Unlike others (see for example, Tobis, 2000), we do not argue that the ascendancy of residential care is due to sovietization, but rather that the socialist period represents a critical juncture in Czech history. The Soviet system favored large-scale institutions over family supports, vested inordinate powers to bureaucrats, and weakened civil society (Večerník, 2008). Thus, political changes during this period ushered in expansion and entrenchment, or lock-in, of institutional care, but the elements of the pre-war system, notably that of paternalism and a system of institutions, provided fertile ground for this to occur. As discussed, in all of the periods prior to Soviet authority, alternatives to care existed. And, in one period, the First Republic, alternative forms of care were broadened and could have conceivably surpassed institutionalization as the standard. But the succeeding rule by German forces, and the eugenics movement and its related pathologizing of children in need of care, interrupted that development. As a result, the following Soviet period sealed its fate. Institutionalization then became the only viable path.

Now, more than 20 years after de-Sovietization, democratization, and economic liberalization, the residential care system remains ensconced. Albeit, it has a different form from the large-scale institutions of the Soviet period, but residential care continues in its dominance for care (for certain children) outside the family of origin. As in other areas of social reform, the Czech welfare system holds an "institutional and attitudinal resistance to change" (Potůček, 2004, p. 265). Despite pressure and attempts to change, the path persists: the rate of children in residential care actually increased from 1990 to 2010—from 704 to 1268 per 100,000 of the child population (UNICEF, 2012).

Successful diversion from this path demands a new culture of child protection: one that envisions children with disabilities as capable of functioning in society; one that values Roma identity and culture; one that does not pathologize poor families; and one that upholds the rights of children to community and family. Just how such a cultural change could occur is beyond our analysis. But, within the framework of path dependency, some initial claims can be made here: the structures that support institutionalization have to be weakened and the key actors (i.e., experts in the system) have to be reoriented.

The dismantling of this system would entail, at minimum, the following: (1) reorganization of the legal process in a way that presupposes and protects familial rights; (2) reconceptualization of assessment to a strengths-based model that incorporates a child and family-centered approach; and most crucially, (3) dramatic expansion of support services to children and their families in order for children to remain in parental care.

In the Czech case, the state's willingness to change course is evident, but the structure of institutionalization is dependent upon more than just current political authority. It is a deeply embedded and firmly established cultural practice, the deviation from which challenges current beliefs, knowledge, patterns, and processes. The discussion is not only relevant for the Czech Republic, but for any number of countries that continue, despite the enormous human costs, to segregate certain types of children from society for long periods, limiting their ability to form close human relationships and inhibiting them from reaching their full potential.

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