

FOSTER FAMILY CARE FROM THE POLISH AND AMERICAN PERSPECTIVES

URSZULA GRUCA-MIĄSIK

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Urszula Gruca-Miąsik, Instytut Edukacji Uniwersytetu Rzeszowskiego (Institute of Education University of Rzeszów), ul. Ks. Jałowego 24, 35-010 Rzeszów, Poland.

INTRODUCTION

Both in Polish and American societies many children are not safe in their homes and must be placed in substitute care settings by governmental institutions. Child welfare agencies and courts increasingly are placing children in the homes of their relatives rather than in traditional foster family homes (in USA 31% of all children in out-of-home care in the early 1990s were living with theirs while in Poland about 90% – Gruca-Miąsik 1998).

Modern pedagogy assumes that foster care is designed to provide temporary care, supervision, and support to children who cannot live at home because they have been abused or neglected by their parents. According to statistics, in 1995 more than one million children were reported as victims of child maltreatment in the United States, a number that reflected substantial growth over the previous two decades (*U.S. Department of Health and Human Services, National Center on Child Abuse and Neglect, 1997*). As the number of problem families reported to child welfare authorities has rapidly increased, so has the number of children requiring substitute care. The substitute care population increased from 276 000 children in 1985 to approximately 494 000 children a decade later (Courtney 1997). In Poland the substitute care population increased from 107 847 children in 1990 to approximately 119 501 children in 2000 (Kolankiewicz 2002).

DEVELOPMENT OF INSTITUTIONS OF FOSTER FAMILIES

In 1979 the Minister of Education issued a regulation concerning the selection of foster families and detailed rules of giving assistance to these families. Some formulations included in the earlier regulation of the Council of Ministers on foster families were expanded and specified there. The principle of non-disuniting of siblings and priority of placing children in kin families was emphasized. Moreover, the duties and the amount of remuneration for teachers appointed to give assistance to foster families were defined.

The 1980s and the beginning of 1990s are the continual development of institutions of foster families. Successive normative acts introduced modifications concerning financial benefits and the procedure of appointing these families (Kusio 1998, p. 38). The act on system of education of 25 October 1991 (*Journal of Law* 1991, no. 95) indicated the guardian of education as the body adequate to organize substitute care for children and youth totally or partially deprived of parental care. The guardian, by virtue of the agreement concluded between him and a foster family, could also, on his own, place children in foster families (the motion of natural parents, or at least their consent, was required). It concerned the administrative procedure of placing children in foster families, at the same time there were still sustained the regulations included in the family code, giving the court the possibility of directing children to foster families in the case of limitation or deprivation of parental authority of natural parents (the practice showed that the courts directed to foster families over 90% of the totality of children placed there).

At present, after transferring the problems of foster families to the act on social assistance, successive regulations concerning foster families more strongly than previously emphasize the right to preserve ties with natural family, which is in accordance with recommendations of the Convention on Child's Rights. It also constitutes an emphasis of the principle of supportiveness (being one of the leading principles of the act on social assistance). This principle resolves itself into the statement that higher communities (e.g. the state) do not take over what smaller groups (family) and individuals can do on their own. The assistance of the state is indispensable when it is necessary for these lower groups and individuals to take on back their functions (Andrzejewski 1999, p. 176).

According to the present legal regulations, a child totally or partially deprived of parental care is provided with care and education in a foster family by the district (and not by the guardian of education). Attention is also focused on the following matters as the most important conditions for establishing a foster family: preparation of candidates to perform the function of the foster family, possibility of satisfying the needs of the child. One may conclude that the intention of the legislator is to direct children to families who give the guarantee of proper performance of tasks of a foster family (Passini 2001, p. 18).

Supervision over the functions performed by foster parents is exercised by district centers of assistance to family or by public or non-public adoption-care centers. They inspect justification of further stay of the child in case of placing them for the period over half a year. Such inspections should be carried out at least once half-yearly. The duties of these institutions will be, among others, the following:

- maintaining permanent contacts with the foster family,
- supervising the fulfillment of conditions of the agreement of entrusting the child,
- giving assistance to foster families in solving difficulties with upbringing,
- informing periodically the chief official about the situation of the child in the foster family.

However, it should be emphasized that apart from these institutions the body authorized to control always is the guardianship court as well.

Also foster parents were clearly obliged to maintain permanent contacts with the above-mentioned institutions and the guardianship court, in particular they have to inform about difficulties in performing the function of the foster family. Foster families are obliged to inform the center of assistance about essential matters concerning the child, and in particular about:

- the state of their health, progress at school and difficulties with custody, including difficulties with upbringing,
- a break in taking personal care of the child, when it results from health problems or acts of God, when the family cannot personally take care, or when the child periodically stays in an adequate institution, if the break lasts longer than one month, and about a person or institution that takes care in this period,
- self-willed walking away of the child.

The child welfare system in USA is guided by a series of federal, state, and local legal statutes that reflect basic principles concerning the government's role in child protection, family support, and family privacy.

Enacted by Congress in 1980, the Adoption Assistance and Child Welfare Act authorises the Federal Government to subsidise state child welfare programs with an emphasis on finding permanent homes for children, either through family reunification or adoption. In order to obtain Federal funds, states are required to conform to modest guidelines that ensure that children will not languish in state care for years. The regulations include a requirement that states develop semi-annually. States must make reasonable efforts to prevent family separation and encourage reunification; and they cannot deny assistance to any child who qualifies for Federal protection by virtue of parental abuse, neglect, abandonment or death.

All child welfare services, including kinship and foster family care, should contribute positively toward the goals upheld by this public system. First and foremost, the fundamental goal of the child welfare services system is to *protect children* from harm at the hands of their parents or other caregivers. Notably, this concern for children's basic protection can override a family's right to privacy from state intrusion (Otto, Melton 1990).

Two secondary principles have also been identified as forming the basis of a well-functioning service delivery system for vulnerable *families* (Berrick, Barth, Needell et al. 1998). The child welfare system should strive to *support families* and it should *promote permanence* for children. It is a widely held belief in the United States that biological parents have a significant right to the care and custody of their children (Mason 1994). Therefore, it is appropriate for the child welfare services system to attempt to support families (including extended relatives) as they exercise these rights within a safe environment for children. When children are placed in out-of-home care, attention should be paid to whether the caregivers with whom they reside can support the children's families and to whether the caregivers are perceived by children to be part of their family.

The third child welfare goal, permanence, is typically defined in legal terms to include three forms of custody: (1) reunification with a biological parent, (2) adoption, in which legal rights to parenthood are severed with the biological parent and are fully transferred to an alternative adult, or (3) legal guardianship, in which authority for the child is transferred from the parent to an alternative caregiver. Promoting children's lifetime permanence is a hallmark of good child welfare practice and is stated as a goal by federal law in the Adoption Assistance and Child Welfare Act of 1980 (*Public Law 96 – 272*). Children's experience while in out-of-home care can facilitate permanence, or it can hinder their opportunities to have legal, lifetime relationships with adult caregivers. Kin and non-kin foster care should therefore be explored to discern the ways in which these placement settings assist children in attaining this child welfare goal.

KINSHIP OR NONKINSHIP CARE

When children are removed from their parents' homes because of maltreatment, it is incumbent upon the government to ensure their safety and protection. The ultimate insult to a child and family occurs when children suffer additional maltreatment in out-of-home care. Yet little information is available in the general child welfare literature that sheds light on the incidence of maltreatment in substitute care. Some estimates indicate that between 0.2% and 7% of children placed outside their homes are maltreated by their caregivers (Bolton, Laner, Gai 1981; Ryan, McFadden, Wiencek 1987).

One study set out to identify the characteristics associated with maltreatment in out-of-home care by studying a sample of foster homes (Zuravin, Benedickt, Sommerfield 1997). In about one-sixth of the homes, reports of maltreatment had been confirmed. The researchers discovered that nonkin foster parents were twice as likely as licensed kinship foster parents to have a confirmed report of maltreatment.

These findings can be explained several ways. Maltreatment might be more readily discerned in nonrelative foster homes than in kinship homes because the

former receive more services, and so are more often observed by child welfare workers. On the other hand, the children in the two types of homes might differ in ways that provoke different treatment from their caregivers. As the researchers note, "Selection could account for the results. Kin may choose to care for less disturbed children leaving for placement in regular care the most disturbed" (Zuravin, Benedickt, Somerfield 1997). While no child should be maltreated while in out-of-home care, it would not be surprising if those who cared for the most troubled children were also to find it most difficult to provide a safe and nurturing home.

Whether children in kinship care are less behaviorally or emotionally disturbed is a subject of some debate. Several studies that reviewed the characteristics of children placed in kinship foster care and nonrelative foster care found similarities among the children in health status, educational needs, and behavioral problems (Berrick, Barth, Needell 1994; Dubowitz 1990; Iglehart 1994). However, other studies (Benedickt, Zuravin, Stallings 1996; Gruca-Miąsik 1999) suggest that children placed with nonrelatives arrive in care with more severe developmental and behavioral problems. Kin may choose not to care for these children when asked to do so, because of their own age or health status. Such choices exercised by kin would reduce the proportion of especially challenging children found in kinship settings, and would make it less meaningful to directly compare rates of maltreatment in kin and nonrelative foster homes.

In addition to the fundamental measure of children's exposure to maltreatment while in out-of-home care, there are other indicators of protection from harm. Two small-scale studies examined the nature of the care provided in kin and non-kin foster homes using caregiver self-reports (Berrick 1997) and, in one case, in-home observations (Gaudin, Sutphen 1993). The kin homes provided a similar level of safety, support, and supervision to children as did the nonrelative homes. Nevertheless, perhaps because of their relative poverty, inadequate access to resources, and insufficient training, the kinship foster parents were less likely to have materials or skills that would assist them in an emergency (for example, an earthquake kit, knowledge of CPR, and the like – Berrick 1997). Nonkin foster parents provided somewhat more desirable caregiving environments, although the care in both settings fell in the "average quality of care" range (Gaudin, Sutphen 1993). The foster parents showed somewhat greater knowledge of both child development and appropriate expectations for young children.

Evidence from California (where kinship caregivers are not required to become licensed or trained) suggests that some kinship homes provide less than satisfactory care (Berrick, Needell, Barth 1998). Participants in a statewide survey of child welfare workers reported that approximately one-third of kinship homes fell below the standards they regularly witnessed in average foster family homes. To safeguard children's fundamental right to protection in out-of-home care, better screening, training, and education for caregivers may be needed prior to placement, even when the children are going to live with family.

In addition to more rigorous screening prior to placement, more support and training during placement might help kinship foster parents to enrich children's developmental opportunities. Research on all families reveals that some of the characteristics typical of kinship caregivers are associated with poor outcomes for children in adulthood. In particular, single-parenthood, lower levels of education, and poverty predict lower educational achievement and employment earnings, and more antisocial behaviors (Haveman, Wolfe 1994). Only one study has examined adult outcomes for children who were raised for a significant period of their childhood in kin and non-kin foster homes, however, and it focused on licensed caregivers (Benedict, Zuravin, Stallings 1996). Children reared in the two licensed settings did not differ significantly in high school completion, employment, or mental and emotional health. In other words, when kin caregivers are screened and supported, they can not only protect children from harm but foster their development.

How children experience their placement, and whether they feel sufficiently safe, is arguably one of the most important indicators of the child welfare system's performance. In one of the rare studies to examine children's experiences of foster care, the large majority of children in kin and non-kin foster homes reported that they felt protected by their caregivers. The study involved 300 children placed in out-of-home care in Illinois, who were asked a series of questions about their satisfaction with their placement (Wilson 1996). The researcher compared the responses of children residing with kin, with foster parents, or in residential care. Children in kinship foster homes and foster family homes were equally likely to report that they felt "safe" with their caregiver (92%). However, children placed with kin were more likely than children in other settings to indicate that they were "happy" to "very happy" (70% in kinship versus 59% in foster care), to say that they "always felt loved" (94% kinship versus 82% in foster care), and to rate themselves as happy in 15 domains of life.

The research on foster families in the system conception in 2001, conducted by the author, involved 120 families from Podkarpackie Province, of which 60 constituted foster families (Z group), the next 60 were the families from the comparative group (P group), selected in accordance with the methodological criteria of Olson's Model. The research focused on 423 persons in total, where 240 persons were parents. In foster families 93 children met the assumed criteria (full foster family – consisting of their own children and without their own children, children's age from 12 to 18, period of stay of children in the foster family – over 1 year) and in kin families there were 58 children (where 38 were the children taken for upbringing), and in non-kin foster families there were 35 children (where 31 were the children taken for upbringing). In the families from the comparative group (60 families) there were examined 90 children corresponding to the methodological assumptions of Olson's Model (Olson, Russel, Sprenkle 1979; Olson, McCubbin 1982).

In foster families clear dependence between the kinship degree with the child taken for upbringing and their adaptive features is not stated. Kin and non-kin families in relation to a child have similar skills as to adapting to changes occurring in their life and solving everyday problems, and the differences occurring between them do not achieve the required level of statistical significance ($p > 0.05$).

As to dependencies between the subjectively expressed level of functioning of foster families and their internal cohesion the factor essentially distinguishing the families from the Z group appeared to be the kinship degree with the child taken for upbringing. In the subgroup of non-kin families (Zo) there occurred a higher average index than in the subgroup of kin families (Zs – $p < 0.025$). This result, to some extent, may seem unexpected because the higher level of cohesion should be expected in kinship care foster families (Gruca-Miąsik 2002).

Since the mid-1980s, the use of kinship foster care in USA has expanded rapidly. A 1990 national estimate indicated that 31% of children placed by child welfare authorities in out-of-home care resided with kin (Kusserow 1992). This estimate was based on reports from 29 states that in their records and statistics, could separate relatives from unrelated foster parents. Another study indicated that, in the same year, the number of children placed in kinship foster care closely approached the number in other foster care placements in three large states (California, Illinois, and New York), while in Missouri, kin homes were less often used for foster care. Differences are even sharper at the local level. In 1994, two-thirds of the children placed in care in Baltimore resided with kin, whereas in Norfolk, Virginia, only 2% of children in care were living with relatives (Curtis 1995).

In comparison, at the end of 2002 in Poland in Podkarpackie province there were 1153 foster families; kin families – 992 (86%), non-kin families – 161 (14%), the children who stayed in foster families – 1506; in kin families – 1296 (86%), in non-kin families – 210 (14%).

Since a large number of children in the United States are reared by their relatives and kinship foster care mirrors this informal system, it is easy to assume that kinship foster care, by definition, is supportive of families. Certainly, kinship foster care can, as one author put it, “provide continuity, lessen the trauma of separation, preserve family ties, and offer growth and development within the context of a child’s culture and community” (Ingram 1996). And when the kinship caregiver selected for the child is a known and trusted relative, the child’s extended family ties have indeed been maintained. The majority of kinship caregivers are grandmothers, who often already have close relationships with the children in care (Berrick, Needell, Barth 1994; LeProh 1994; Chalfie 1994). Of course, blood relationships are not always meaningful to children, particularly to infants removed in the first months of life, whose conception of *family* is formed through relationships

and over time. Notions of whether kinship care supports family ties should be considered from the child's perspective, as well as the parent's and relative's.

For example at the end of 2002 in Poland in Podkarpackie province there were 992 kin families (including the families established by: siblings – 101 (10%), aunt/ uncle – 225 (23%), grandparents – 652 (66%), further relatives – 14 (1%).

A distinctly growing proportion of children in the foster care system are cared for by their relatives. In both countries, relatives have no legal obligation to become children's caregivers, but kin are increasingly likely to exercise their responsibility to their extended family members. In some US states, child welfare authorities recognize kin as foster caregivers within the child welfare system only if they participate in training and become licensed in the same manner as foster parents (Gleeson and Craig 1994; Hornby, Zeller, Karraker 1996). In other states, preferences for kin have been written into legal statutes. For instance, in California the preference encompasses kin who have not been licensed or trained by child welfare authorities (Berrick, Needell and Barth 1995).

In Poland, in accordance with the act on social assistance, kin or the persons indicated by the child's parents have priority of performing the function of foster parents, if they guarantee improvement of the child's situation.

Foster parents should have adequate preparation to perform the function of the foster family, such training courses are organized by individuals and units responsible for organization of foster care in the district.

Foster parents should have possibilities of satisfying the child's needs (in particular it concerns therapeutic and rehabilitative families). Non-disuniting of siblings should be the principle.

Foster parents of children qualified for special education, participation in rehabilitative-educational classes or preventive-educational or rehabilitative assistance must have full cognizance as to the disturbances occurring in the child, i.e. they should in principle undergo adequate training – unless they acquired adequate knowledge earlier (Gruca-Miąsik 2003).

The act clearly provides that it is necessary for foster families to undergo the training organized by the district center of assistance to family or by their order. Although the act says that foster families only "should" undergo such training, it should be considered as their obligation (it concerns especially non-kin families and families performing the function of emergency guardian center – in the case of the latter the act clearly provides that it is the qualifying condition required to perform this function).

Both in Poland and in America it is considered that kinship care is not the right answer for all families. For some kin, the burdens associated with child rearing represent a significant sacrifice at a time in the life cycle when additional supports and services are needed, but may not be available (LeProhn 1994; Minkler, Roe 1992; Gebel 1996). One study (Gebel 1996) found that kin caregivers were visited and called less frequently by caseworkers than other foster parents, and another

(Dubowitz 1990) discovered that more than one-quarter of kinship foster parents had had no contact with a caseworker in the previous year. Child welfare workers sometimes justify the inequities in service provision between kinship and foster caregivers by arguing that kin prefer fewer intrusions into their personal family lives (Berrick, Needell, Barth 1995). However, the disparities between kin and foster caregivers described above suggest that kin caregivers have an equal, if not greater, need for services and assistance.

The types of assistance most frequently requested by kin caregivers include legal assistance (primarily to establish a legal relationship with the child through guardianship), assistance obtaining financial support (McLean, Thomas 1996), respite care (Berrick, Needell, Barth 1994; Minkler, Roe 1992), training, and support groups (Woodworth 1996). Such supports can help make kinship care a positive experience for the child, the caregiver, and other family members.

LEGAL GUARDIANSHIP

One important legal innovation may be guardianship. Although legal guardianship is not widely used or well understood (Simmons, Barth 1995), it offers special opportunities for children to attain legal permanence with an adult caregiver when their need for protection has been overcome but they cannot return home or be adopted. Although parental rights are not terminated, legal guardianship gives the caregiver authority to make medical and educational decisions on behalf of the child, and affords a greater degree of control over family decisions.

In some states, non-kin foster parents are eligible for a state-funded subsidy upon assuming legal guardianship, but in all states, the child's kin are excluded from such payments. Some kin caregivers who become guardians receive welfare payments for a child who is eligible for cash assistance, but that is a significant reduction in financial assistance from the foster care subsidy received while the child remained in the foster care system. The limited assistance available to relatives who assume legal guardianship makes some reluctant to exercise this option. The California data set discussed earlier shows that children in kinship foster care exit to legal guardianship more frequently than do children in non-kin foster care. The proportion of children exiting to guardianship from kinship care within six years of their placement is approximately 9%, compared with 2% from foster family care, although the proportion of kin guardianships might increase substantially were subsidies available.

Also in Poland there are indicated the advantages resulting from assuming legal guardianship over the child by foster parents. Legal guardianship and actual care assumed by foster families in Poland in an obvious way differ from each other. The legal caregiver who is not a foster parent has no obligation of taking actual care of the child, although it is desirable for the good of the minor. It may be said that he is the person who assumes the rights and obligations towards the child resulting

from parental authority – although parents still preserve some rights resulting from the fact of being parents.

It is emphasized that the functions of the foster family and caregiver superbly complement each other, the status of the foster family is the most correct way of performing legal guardianship over a child. Granting to foster parents the function of caregivers does not result in the fact that they achieve the same status as the natural family (Safjan 1983, pp. 48 - 49). It results from the fact of regulation of legal guardianship in the code regulations. They constitute, among others, that caregivers are subject to the supervision of the guardianship court within the scope of the care assumed by them, besides caregivers should obtain the consent of the court in all more important matters concerning the property or the minor. It means the obligation of obtaining every-time a single consent of the guardianship court, e.g. to the change of the place of residence of the child. The caregiver should also submit reports and explanations concerning the way of performing care, conform to recommendations and orders of the guardianship court, he also is responsible for damage made by improper managing the property. There is lack of differentiation in respect of the benefits entitled from the state for foster families assuming legal guardianship and foster families that are not entitled this attribute (in this respect there are neither differences to advantage nor to disadvantage, the lack of such differentiation concerns also kin and non-kin foster families).

CONCLUSION

When children are removed from their homes, they may be placed in a variety of settings. In many states in USA and provinces (voivodships) in Poland, foster family care has been the predominant form of substitute care for several decades (Chamberlin, Moreland and Reid 1992; Kolankiewicz 1998). Foster parents are usually licensed by the state or local authorities, indicating that their homes have been assessed for basic health and safety standards, and that the caregivers have participated in at least minimal training to provide care and supervision for a child. Other substitute settings in which children may live include specialized foster care with caregivers specifically trained to care for special needs children, group homes, residential treatment centers, and shelters.

Both in Poland and in America substitute placements address three major goals of the child welfare system: providing protection for children, support for families, and permanent homes.

In light of the increasing reliance on kin caregivers, new service strategies and policy solutions are needed to forge a workable balance between the competing interests of family privacy, equity in support for families, and government responsibility for child protection.

In sum, kin typically can provide safe and nurturing environments for the children they take in, though limited resources and lack of training may constrain their ability to foster the children's development.

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