

**Anthony (Tony) Capizzi<sup>1</sup>**

Judge, Montgomery County Juvenile Court, OH, United States  
of America

## *Child protection system: just think differently?* *Book review*

Magdalena Szafranek, Petr Fabián, Albín Škoviera, Joanna Gorczowska

*Child protection system – just think differently?*  
*Critical analysis of selected models*

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*Child protection system: just think differently?* Is an informative publication which focuses on child protection in Poland, Czechoslovakia and the Czech Republic, Slovenia, as well as England and Wales. Collectively, the book provides insightful information which shows that different countries tackle similar problems in unique ways.

The first chapter, “Poland: between family and foster care” – authored by Magdalena Szafranek – details the origin and development of Poland’s childcare system dating back to 1945. Szafranek provides an insightful background as to how history and social norms affected the development of Poland’s family law.

First, Szafranek points out that in 1945, the “substantive civil law in Poland was very complicated” (Szafranek et al., 2022, p. 11). She explains that most relevant laws had not yet been codified, which created “partition laws” that varied among districts.

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<sup>1</sup> **Corresponding author:** Anthony (Tony) Capizzi, Judge, Montgomery County Juvenile Court, OH, United States of America, 380 West Second Street Dayton, OH 45422, tel.: (937) 496-6602, email: [judgetonycapizzi@gmail.com](mailto:judgetonycapizzi@gmail.com), [acapizzi@mcjcoho.org](mailto:acapizzi@mcjcoho.org)

Szafranek details the development of Poland's codification process from the Decree of the Presidium of the National Council of January 22, 1946 through the current law as detailed under the Polish Constitution. Having worked on legislative developments myself, I found the background information in Szafranek's chapter most helpful. Oftentimes, our practice is focused so much on interpreting and applying the current law that we forget how we got here in the first place. Having a strong understanding of the history of Poland's codified family law system provides a strong foundation for understanding its contemporary application.

After taking readers through Poland's family law history, Szafranek details the legal considerations of child custody under its current law. The recurring theme I observed in her chapter is that Polish law emphasises that a child's welfare is always the most important consideration when determining matters related to a child's care and custody. Szafranek explains that "a child's welfare requires that he or she should always live and grow up in conditions that ensure his or her physical and spiritual development to the maximum extent possible, as well as properly prepare him or her for working for the good of society according to his or her talents" (2022, p. 25). To that end, Szafranek explains that a parent's "right to raise children in accordance with one's beliefs are subject to constitutional protection" (2022, p. 18) which sometimes leads to the deprivation of parental rights.

Considering that parents have a right to raise their children, Szafranek addresses the issue of *termination of parental authority* both through divorce proceedings and what we refer to in the United States as *abuse, neglect, and dependency* proceedings; or cases that involve a children services agency. Szafranek stresses the importance of holding evidentiary hearings in a court of law and prohibiting "mere acknowledgement of the claim or admission of facts" (2022, p. 25) in the Polish courts. As a presiding judge, I find this to be highly important. In the United States, we believe that a parent has a fundamental right to raise their child and any court proceeding which seeks to curtail or terminate these rights must be based in proper and substantive evidence.

Szafranek's chapter also explains that the state has an obligation to provide for a child's welfare in the event that a parent is unable to do so. Szafranek details the various ways that family or guardianship courts take jurisdiction over a child in Poland, including paternity, adoption, and matters related to a *deprivation of parental authority* due to abuse or neglect of parental authority. I immediately recognised similarities to family law courts in the United States; we too have an obligation to protect the child's best interest under certain circumstances and family law courts do so in various ways, including custody and guardianship proceedings. In both Poland and the United States, the child's welfare and best interest is always the most important consideration.

The second chapter titled "Childcare in Czechoslovakia and the Czech Republic" – by Petr Fabián – details the childcare system in Czechoslovakia and Czech Republic with a strong emphasis on the development and use of substitute care, including institutionalised care, non-relative foster care, and biological foster care.

Fabián's chapter starts by providing background information, dating back to the "colonies" of foster parents prior to the Second World War, through the communist era where foster families ceased to exist, and ending with democratisation and the current childcare systems in the Czech Republic. Fabián's brief history shows

that over the last century, the child welfare system's use of substitute care vacillated among different types of care; oftentimes favouring one type of placement over the other.

Part of Fabián's chapter focuses on the deinstitutionalisation and the legal protection of children in the Czech Republic after 2012, highlighting various developments in both the social and legal protection of children. To that end, Fabián addresses the relationship between economic resources (or the lack thereof) and success as a parent. Fabián addresses a perceived connection between poverty and what is referred to as good parenting referencing relevant studies that suggest that "good parenting [has] become strongly correlated with the economic and social situation of the family, as opposed to being a personality trait of the adult" (Fabián, 2022, p. 57). Fabián further notes that the relevant Civil Codes acknowledge that "child neglect in poor households is caused by social reasons" (2002, p. 56) thereby recognising that poverty, in and of itself, is not grounds for removing a child from their home. I found this portion of Fabián's chapter especially important to child welfare as a whole, both in and outside of the Czech Republic.

Fabián's chapter also devotes significant attention to the use of social workers in the child welfare system. As with other sections of his chapter, Fabián includes verbiage from code sections that provide solid authority for his writing, which also helps the reader understand the legal context at hand. What I found most interesting about this section is that Fabián recognises, unapologetically, that social workers are not capable of doing all that is asked of them. He explains that "in the new legal order, [social workers] are expected to take a more therapeutic and motivational approach towards the child's parents" (Fabián, 2022, p. 63). Fabián acknowledges that "there are limitations in the comprehensive and long-term preparation of social workers to carry out the therapeutic work that is now expected of them" (2022, p. 64). Sadly, the same is often true in the United States.

The key takeaway from Fabián's chapter is that the Czech Republic's child welfare system has not yet addressed the underlying issues that cause a disruption in the child's life. Fabián states that "[i]t is a paradox that even the best [child welfare] system will not solve the root of the problem – lack of a loving and creative family environment – without a functioning overall family policy system that focuses on teaching responsible parenting" (2022, p. 72).

In the third chapter, "Context on changes in the Slovak system of substitute educational care in the years 1989–2019" author Albín Škoviera focuses on how the changing structure of the Slovak social system affected the child welfare system. Most notably, Škoviera explains how the separation of various social sectors affected three key aspects of children's welfare; the priorities of children's assistance, the organisation affecting children, and the professional structure of the involved staff.

Škoviera details how periodic changes in the Slovak system came with both positive and negative consequences. Accordingly, Škoviera acknowledges that not all contemporary components of the Slovak system function as well as prior models. For example, Škoviera notes that from 2006–2018, policy changes brought about more emphasis on institutional care in a professional family. As part of these changes, widespread assistance and support of families by children's homes and non-profit organisations

became more common; this made family conferences more common and accessible. Even so, Škoviera raises several well-founded concerns with the policies during this period, noting particularly that “the system of institutional educational care, which is strongly tied to court decisions, is not flexible” (2022, p. 92). As I reflect on my time as a judge, I can confidently acknowledge that our legal systems are not perfect; and they likely never will be. I think Škoviera is right to acknowledge that children’s welfare is an ever-changing environment which might benefit from increased flexibility, where appropriate.

Further, Škoviera acknowledged that evaluation metrics do not always produce better results. For example, Škoviera points out that “evaluating the quality of work of children’s homes based on how many professional families they have or how many children they have ‘successfully’ managed to return to their biological families leads to the lowering of requirements for professional parents and sometimes results in children being returned to the biological families before the latter are fully prepared. In these cases, the children soon are ‘back’ in the system” (2022, p. 92). I found this observation to be astute, on-point, and appropriately provocative.

Notwithstanding his aptly placed criticisms, Škoviera gives credit to the overall changes in the Slovak structure, noting that “[t]he biggest shift, however, has occurred in the perception of children’s needs, as priority was moved from upbringing and education to care and welfare” (2022, pp. 93–94).

Like the preceding chapters, author Joanna Gorczowska begins her chapter “The child protection system in England and Wales” with an informative history of relevant child welfare laws, including the development of juvenile courts and the registration of foster parents. Notably, Gorczowska details how legislative changes were often sparked by the unfortunate deaths of children as a result of abuse or neglect. Although horrific, Gorczowska explains how these untimely deaths lead to systemic changes in England and Wales, including transitions to a more child-centered system where “[t]he term ‘parental responsibility’ focused on the duties rather than the rights of the parent toward the child” (2022, p. 103).

Gorczowska’s chapter also acknowledges that not all legislative changes were for the better. For example, Gorczowska details how the Children Act of 2004 placed greater emphasis on inter-institutional cooperation and integrating services for children. Nevertheless, in 2007, the death of a 17-month-old prompted a public inquiry which revealed that her death could have been avoided if not for the “poor and inadequate cooperation of all the agencies that had the child’s family in their care” (Gorczowska, 2022, p. 108). In this case, the family was already under the care of social services and health professionals, which revealed that “the child protection institutions were underpaid and too focused on objectives and procedures at the expense of child safety” (Gorczowska, 2022, p. 109).

Aside from providing a valuable and informative history of child protection legislation, Gorczowska’s chapter also provides ample information about the court proceedings, various types of custody orders, and the use of short and long-term foster care in England and Wales. Timeliness is an on-going theme in this context; “[t]he child protection system in England and Wales emphasises the importance of making decisions about the child’s situation without delay because any unjustified delay has

a negative impact on his or her life and development” (Gorcowska, 2022, p. 111). I found this to be a key takeaway in Gorcowska’s chapter. Indeed, time is perhaps the most precious commodity when it comes to advocating for a child both in terms of prevention and intervention.

The final chapter, “Assessment of the Presented Models” – also written by Petr Fabián – summarises the preceding chapters and compares the four models by addressing overarching themes such as family trauma, kinship or grandparent care, and what it means to live in foster care until adulthood. In this final section, Fabián addresses fundamental dilemmas presented by the four models, encouraging readers to look to the horizon for answers.

In this comparative analysis, Fabián raises several questions about the role of foster care and its long-term implications on a child, noting first and foremost that “[e]ach of the presented models struggles with a shortage of foster parents” (2022, p. 137). Fabián asks apropos questions about the underlying motivation for foster parenting, and how that motivation affects the foster parent-child relationship. Specifically, Fabián asks “[i]s foster care a mission or employment? Is the fosterer a substitute parent or a person to whom the child is entrusted?” (2022, p. 139). Fabián asserts that when fostering is perceived as a mission, a stable foster family can provide a child with a “second family” that provides stability through adulthood.

Considering that foster families have the potential to become more than just a transient part of a child’s life, Fabián’s final chapter also addresses how concepts of “normal” families have evolved over time. He contemplates how this evolution affects questions such as “who is the parent?” and how the family structure affects the intervention process. As part of this analysis, Fabián acknowledges that in all four models, children develop parental bonds with biological and foster parents as well as grandparents, thereby blurring the roles among caregivers. This raises further questions such as, “[w]hat place will the children call ‘home’ when they grow up?” (Fabián, 2022, p. 138). Fabián points out that although “foster parents are supposed to leave the children to their fate when they reach adulthood” (2022, p. 138) young adults still need “something to relate to and somewhere to return to” (2022, p. 138) after reaching the age of majority.

Fabián’s final chapter also compares the individual systems’ use of social workers and family assistance, acknowledging that the tools provided to the family have a direct correlation with the family’s success. For example, Fabián compares the Czech model’s emphasis on “material assistance” to fight poverty and social exclusion versus the British and Polish systems which focus on “the development of parental competencies and time-bound assistance” (Fabián, 2022, p. 142). While each system has its benefits, the systems that “focus on strengthening the relationship ties and providing assistance to vulnerable families have a higher success rate and can find non-traditional solutions for children in institutional care” (Fabián, 2022, p. 143).

Fabián ends his conclusion by acknowledging that the models provided in the publication were not random; the first three models come from countries with a totalitarian past and the “UK model was chosen as a point of reference for their change and further development” (2022, p. 148). Considering this, he points out that all four of the presented models evolved over time, progressing from a child protection model

to a family service model, with a potential goal of shifting to the child focus model if one has not already been established. Fabián concludes by suggesting that progressive change is within reach, noting that it would require “minimal interference with existing national legislation and [would] use tools that have already proven effective in practice, albeit in different systems” (2022, p. 148).

Overall, I believe that *Child protection system: just think differently?* is a useful resource for legal practitioners and social workers. Really, any professional whose work involves child welfare could benefit from the holistic analysis that these authors have condensed in their respective chapters, and the final comparative sections are the icing on the cake. After nearly two decades on the bench, I can say with confidence that when it comes to developing practices and procedures for the child welfare system, the goal is always to move forward and prevent the repetition of past mistakes. To that end, in order to know where we are headed, we have to know where we have been. Resources such as *Child protection system: just think differently?* help readers understand the past in order to craft a better future. In my opinion, practitioners worldwide could benefit from resources such as *Child protection system: just think differently?*