ABSTRACT: Building on Merton’s notion of the unintended consequences of purposive social action, this article examines the Romanian government’s response to the social problem of children deprived of parental care and the consequences of institutional action. Based on historical analysis of legislative data and interviews with actors in the Romanian child welfare system, I discuss the mechanism behind the perpetuation of the child abandonment social problem, with emphasis on the inability to effectively implement child protection law over time. The analysis shows that transformations inherent to the transition to a free-market economy, and the failure to recognize that child abandonment is not an isolated social problem, have constrained social actors’ foresight regarding the outcomes of Romanian child welfare reform. Moreover, international pressure toward institutional isomorphism has resulted in inefficient child-care institutions, creating tension between globalism and localism that has generated multiple unintended consequences such as corruption and child trafficking. In terms of agency, a combination of low socioeconomic status, lack of parenthood-centered education, and the legacy of communist-era expectations regarding the state’s responsibility in childrearing have contributed substantially to the problem.
The breakdown of communist rule in East Central Europe reshaped the region's economic and political environment. From this process came wide variation in individual benefits, as research on "winners" and "losers" of the postcommunist transition amply illustrates (see Przeworski 1991; Mokrzycki 1992; Szelenyi and Szelenyi 1995; Słomczynski and Shabad 1997; Słomczynski 2000). Yet, most of the research refers to the active adult population, that is, directly participating actors, and not to social groups that are largely dependent on institutional support. With regard to these groups, a range of previously nonexistent or unacknowledged social problems surfaced in postcommunist societies, spurring significant but relatively unsuccessful governmental intervention.

Romania's response to the problem of children deprived of parental care is an excellent example of unsuccessful governmental intervention. In the early post-1989 period, institutional action had built on the premise that child abandonment was an inherited social problem, a direct but temporary consequence of the communist demographic growth policy. This misrepresentation of the real causes behind the phenomenon had practical consequences. The government prioritized deinstitutionalization through adoption to help already physically and psychologically deprived children, but, not accounting for the possibility that child abandonment would continue at a high rate long after 1989, it did not develop measures to prevent or reduce institutionalization until the mid-1990s. As a result, in 2004 more than 83,000 children (roughly 1.6 percent of a population of about 5,000,000 children ages zero to eighteen years) are living in placement centers or foster families (National Authority for Protecting Children's Rights, hereafter ANPDC, 2005).

To illustrate the process leading to the buildup of unintended effects that ended up harming precisely those whose interest social actors represented, namely, at-risk children, I analyze, from the point of view of children's interest, the Romanian government's response to the problem of abandoned children. I employ both historical analysis of legislative data and in-depth interviews with key actors involved in the Romanian child welfare system to examine the consequences of institutional action for children's well-being. The time frame 1990-2001 and its corresponding legal documents represent the core of the detailed examination, but I follow the modifications of international adoption regulations to the present day.

**Theoretical Orientation and Research Question**

Merton explained the relationship between motives and multiple results on the basis of "unanticipated consequences of purposive social action" (Merton 1936). He argued that the explanation for the disproportionate relationship between purposive social action and practical outcomes is that human anticipation cannot be completely accurate. Various factors distort the image of resulting outcomes, preventing actors from knowing the entire range of consequences of their behavior. For this reason, once put into practice, intentional behavior produces not only the pursued effects but also unintended ones. Thus, the number and diversity of results
exceed the expectations that spur social action (Arendt 1958; Luhmann 1995).

Relying on Merton’s insights that institutionalized patterns of social behavior are subject to unanticipated consequences, and on the pluralist perspective that the state is a reflection of interest-group pressures determining governmental action, this article poses the following general question: Are basic structural changes and the intersection of national and international political pressures conducive to institutional inefficiency, and thus to institutional action likely to harm precisely the social groups subject of protection? This question is important for both theoretical and policy-oriented reasons (see McCaffrey 1982).

Abandoned Children as a Social Problem: A General Hypothesis

In assessing the social character of child abandonment, I apply the main criteria that define a social problem, namely, a significant discrepancy between social standards and social reality (the act of abandonment is against the general social standards of human rights and the value system surrounding the family), far-reaching negative social consequences of the given phenomenon (the consequences of child abandonment extend beyond children themselves, affecting the society at large), and a belief in the possibility to correct, or at least reduce, its scale. These criteria originate in Merton’s work and are standard in social policy discussions (Merton 1966; Henslin 1996).

Available Options and Institutional Action

To provide for children deprived of parental care, governments have three main options from which to select: (1) institutionalization, that is, placing the child in a residential care center, (2) foster care, and (3) national and international adoption. While national adoption is a well-established child protection measure, intercountry adoption is a relatively recent institution, whose rules are set in international treaties. As the United Nations Convention on the Rights of the Child (hereafter UN Convention) states, “the child, for the full and harmonious development of his/her personality, should grow up in a family environment.” In view of the positive effects of the permanent character of adoption, intercountry adoption should be considered for children who, for various reasons, cannot be raised by their biological family or by another adoptive family in the child’s country of origin.

What Is in the Best Interest of Abandoned Children?

Although governing bodies create systems for residential placement, foster care, and adoption as means for assisting children who lack parental care, research shows that these measures are not equally well suited for ensuring children’s harmonious development. For over fifty years, studies conducted in various countries ranging from the United States to Iran have consistently found that, despite the availability
of well-trained staff and adequate material resources, institutionalization has negative effects on child development. The disruption of the parent-child relationship and the insufficient physical and social stimulation in institutional settings are linked to attachment difficulties and delays in physical, emotional, and social development (Bowlby 1951; Dennis 1973; Freud and Burlingham 1973; Provence and Lipton 1962). Attachment behavior affects cognitive growth in institutions, and long-term exposure to an institutional environment produces developmental delays that continue even after the child’s adoption (Flint 1978; Goldfarb 1943, 1945). Institutionally reared children experience learning problems and deficits in intellectual functioning and are more likely to suffer psychiatric impairments as adults (Frank et al. 1996).

Studies on the effects of institutional rearing on Romanian children also document serious negative effects in the areas of socioemotional, mental, and physical development, demonstrating a clear relationship between length of institutionalization and growth and developmental delays (Ames 1997; Cermak and Daunhauer 1997; Chisholm et al. 1995; Groze and Ileana 1996; Rutter and the English and Romanian Adoptees (ERA) Study Team 1998). It is important to note, however, despite that institutionalized Romanian children are “more severely deprived, physically and psychologically, than almost any other sizable group of children previously studied,” adoption into well-functioning families alleviates much of the trauma (Rutter et al. 1998). The two best predictors of positive outcomes are how well the child’s needs match the family’s resources, and the age of the child at the time of adoption (Ames 1997; Morison, Ames, and Chisholm 1995; Rutter et al. 1998).

To avoid the many problems related to institutionalization, an often-employed alternative is foster placement. Whether this measure complies with the child’s best interest requires a thorough look at its main features, including family placement and the temporary character of such placements. Whereas family placement benefits children, studies indicate that because of its temporary character, the measure “may be harmful to the child’s growth, development, and well-being” (American Academy of Pediatrics 2000). Of the children who enter foster care, most do so in their early years of life, which represent critical periods for brain development and personality formation. Negative environmental conditions, such as emotional and cognitive disruptions, influence this process and can impair brain growth (Perry et al. 1995). They can also lead to attachment deficiencies and behavioral problems, increasing the risk that a cycle of placement instability will be perpetuated (Fanshel, Finch, and Grundy 1990; Goldstein, Freud, and Solnit 1973; Van der Kolk 1987).

Overall, the literature on institutionalization and foster care and their potential effects on child development justifies two conclusions. First, due to the high risks it poses to their normal development, institutionalization should represent the last resort for children deprived of parental care. Second, by offering the child a family environment, foster care is an improvement over residential rearing, bearing in
mind that its temporary nature may harm children’s socioemotional, physical, and mental development.

What is in the best interest of abandoned children? The answer lies in adoption into well-functioning families, because permanency in the family environment following adoption allows for the child’s normal development. Moreover, it allows for the remedy of a large part of the developmental deficits caused by the deprived circumstances of early rearing (Ames 1997; Rutter et al. 1998).

Since this information is well known to social actors involved in child protection, one would expect that states with large numbers of children deprived of parental care would actively work toward facilitating their placement into permanent families. Yet, a glance at the position of abandoned children in Romania reveals a puzzling situation: despite the large number of at-risk children and a low incidence of national adoption due to both economic and cultural factors, in 2001 the government imposed a moratorium on international adoption (see Figure 1). It is more puzzling that the moratorium was to last initially for one year, but was still in force three years later. Finally, in 2004 Romania regulated the revocation of the moratorium, merely to replace it with the requirement that international adoption be considered only if one of the prospective adopters is the child’s grandparent.7

The disconnection between available knowledge of what is best for abandoned children and Romania’s reaction to a growing social problem prompts the following general hypothesis: Institutional formation in the Romanian unsettled economic environment, coupled with competing external political pressures inherent to the transition to democracy and capitalism, have pushed the interests of abandoned children to the background of the government’s political agenda. This is facilitated by the fact that abandoned children, unable to directly voice their interests and stand up for their rights, represent a weak actor in a pluralist polity.

Data and Methods

To examine the context of structural transformations since 1990 and the Romanian government’s reaction to the problem of children deprived of parental care I use both primary and secondary data. First, employing historical analysis, I trace the sequence of legal changes spanning more than a decade and analyze the implementation consequences of each change. Second, drawing on interviews with actors involved in the Romanian child welfare system, I identify attitudes, the competing contextual pressures that shaped the Romanian laws in the child protection system, and the consequences of legal outcomes.

To gain insight into the development of social problems within the Romanian child-care system and institutional responses to these problems I focus on two types of official documents: legal acts and official publications of national and international social actors involved in child protection (see Appendix A). By analyzing the content of Romanian and international laws on child protection, I identify the
Figure 1. National and International Adoptions of Romanian Children, 1997–2004

Source: Autoritatea Națională pentru Protecția Drepturilor Copilului (ANPDC) (2005); www.copii.ro.
Note: On December 31, 2004, there were 1,230 children available for adoption after a minimum waiting period of three months.
goals behind their adoption and distinguish between the intentional and unintentional character of the laws’ practical outcomes.

Archival Data

With regard to national laws, I analyze the legislative measures taken in the area of child welfare between 1990 and 2001. By examining legal changes, I identify the governmental responses to child-protection-related social problems as well as their relationship to institutional mistakes. Although I focus predominantly on laws adopted after 1989, to uncover the social causes of child abandonment and the situation Romania faced after the breakdown of communism, I also examine two laws enacted between January 1954 and December 1989 that supported the child protection system.

The prime documents analyzed for international law are the UN Convention on the Rights of the Child (1989) and the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption (1993). The UN Convention, binding under international law for 186 states, and the Hague Convention, binding under international law for more than forty states, set the conditions for intercountry adoption and represent the “standard” to which Romanian legislation needed to align.

To reveal the magnitude of child abandonment and institutionalization in Romania and shed light on the impact of the Romanian economic situation on child abandonment, institutionalization, and the level of national adoptions, I analyze relevant official publications of the European Union, World Bank, UNICEF, U.S. Department of Health and Human Services, the Romanian government, the International Foundation for the Child and the Family, and the Federation of NGOs Active in Child Protection.

Interviews

To identify attitudes, competing contextual pressures shaping Romanian laws in the child protection system, and consequences of enacted legislation, I conducted twenty-three interviews with actors involved in protecting children’s rights who were active between 1989 and 2001. Interviews were essential in weaving together the historical chronology of the legal documents with the political struggle to change the laws and adjust emergent social problems, and the resulting policy outcomes.

I constructed the interview sample to represent three relevant areas of the child welfare system: (1) state-run placement centers for children, (2) nongovernmental foundations involved in developing social programs to protect children’s rights, including national and international adoption, and (3) the public system of child protection. For each of the three categories I interviewed between five and ten persons who, because of their profession and social position, had in-depth knowledge of child health, state-run institutions, and the legal changes that occurred in Romania over the decade. In choosing respondents, I relied on personal referrals and snowball
sample techniques. Actors had to have worked for at least two years in the child welfare system to be included in the sample. The majority had more than eight years of experience in this area. All respondents hold university degrees (see Appendix B).

Using a semi-standardized questionnaire, I conducted all interviews over the telephone, in Romanian, with each interview lasting between thirty and ninety minutes. Interviews consisted of two parts. In the first part, I asked opinions about issues relevant to all actors, such as causes of child abandonment in Romania, social categories that were most prone to abandoning their children, causes for child institutionalization, the foster care system in Romania, and the consequences of suspending international adoption. In the second part, I explored the issues on which the respondents were experts.

The Social Problem of Child Abandonment in Romania

Findings

Romania publicly acknowledged the crisis of abandoned and institutionalized children only after the 1989 regime change, but the problem originated in the communist era. Thus, both the pre- and the postcommunist period require analysis.

The Communist Period: The Paternalistic Role of the Romanian State

Many of the difficulties in the field of child and family protection that greeted the postcommunist Romanian authorities stemmed from the socialist policy of massive industrialization. This process required a large and continuous supply of workers, whom the Party decided to secure by increasing population size. Hence, from the beginning of the mid-1960s, rapid demographic growth became a major goal of the socialist republic. To achieve it, ideological and economic means were put into play, and, simultaneously, the state used continuous propaganda encouraging people to have more children, monetary allowances for each additional child, prohibition of abortion and contraceptives, and economic penalties for childless persons in the form of additional income taxation. This aggressive pro-childbirth policy, practiced in a context of general economic hardship, which deepened beginning in the early 1980s, led many parents that were unable to cope with childrearing to place their children in state-run residential care centers, at that time the only available option.

The socialist child protection system itself was the other main factor that significantly affected the rate of child abandonment. Legally, as well as in everyday life, government action promoted institutionalization as the main alternative to child rearing. Families unable or unwilling to raise their children could easily give them up to state care. One person said:

Mothers in precarious economic conditions were encouraged to place their children in institutions, and this was encouraged by pediatricians, because if a child
got sick and died within a pediatrician’s care giving area, he/she was held directly responsible for the decease.

— Pediatrician, more than twenty years’ experience

Repeated over the years and implemented in national policy, relentless propaganda that children were the future of a socialist society and that the state would ensure their upbringing and education created among the lower class the mentality that, ultimately, children are the state’s responsibility. This mindset became so embedded in the popular consciousness that it continued to influence the rate of child abandonment long after the systemic change.

Child abandonment now is a main consequence of the mentality created during communism, that the state is responsible for raising all children.

— Pediatrician, thirty-five years’ experience, high-ranking official in a nongovernmental organization [NGO] involved in child protection

Socioeconomic conditions coupled with socialist political discourse led many lower class parents to institutionalize their children and believe that the state would provide for their “normal physical, mental and intellectual development.” Unfortunately, this was not true. Conditions in state-run institutions were so bad that:

Although by the time of their placement many children were suffering no, or only minor, retardation (i.e., undernourishment, "harelip"), the institutional environment was turning them into severely disabled persons.

— Pediatrician, thirty years’ experience

Because revealing this situation would have damaged the political image of the Communist Party, and thus of the state, communist rule concealed the extent of child abandonment, institutionalization, and the poor conditions in children’s centers. Only after the systemic change did Romania admit publicly for the first time that child abandonment was an issue of national concern.

**Child Abandonment in Postcommunist Romania**

In the early postcommunist period, the large number of institutionalized children was generally seen as a direct but temporary consequence of the communist policy of demographic growth. Many believed that once childbearing were left to individual choice, the number of unwanted and subsequently abandoned children would significantly decrease. As a result, one of the first post-1989 governmental actions was to legalize contraception and abortion. Indeed, the measure was followed by a rapid drop in fertility rates, but not by a decrease in child abandonment rates. In 1994 the proportion of child abandonment was already higher than in 1989, with the increase occurring both in relative and in absolute terms. This situation raises the following question: What were the circumstances in post-1989 Romanian society that led parents to continue giving their children up, despite childbearing being a personal decision?

In terms of agency, both economic circumstances and educational factors led
parents to continue to abandon children to the state. Economically, the main cause of institutionalization and abandonment was poverty, which affected an increasing segment of the population. As people experienced the side-effects of economic transformation, for example, high unemployment due to downsizing or the closing of state enterprises, price liberalization, and inflation, many parents found they could not raise their children and instead abandoned them, often believing that the decision was serving their child's best interest. Not surprisingly, the social categories most prone to abandonment were those worst-off economically, namely, very young or unmarried women and Romany (Gypsy) women. The serious impact of economic hardship on potential to abandon children expanded to groups previously not considered to be at risk, namely, women thirty-five to forty years old with at least one child at home.

Poverty, however, was not the sole reason for child abandonment in postcommunist Romania. Parenthood-centered education was the other major cause, and consisted of two complementary factors. On one hand, insufficient education in family planning, especially among the less-privileged segments of society, kept the number of unwanted children high despite affordable contraceptives. On the other hand, the communist-era cultural expectation that childrearing is the state's responsibility continued to play a major part in parents' decision to leave their child to institutional care. When asked about the major causes of child abandonment in contemporary Romania, all interviewees mentioned, besides poverty, the popular belief that the state would raise the child anyway, and the lack of parenthood-centered education (both pre- and post-childbearing). The majority of the respondents considered the mentality factor to be as powerful as poverty.

In sum, institutions treated child abandonment in the early post-1989 period as an inherited social problem and expected it to lessen significantly with the liberalization of contraception. Reality proved this expectation to be unwarranted: poverty and the lack of parenthood-centered education kept the phenomenon going. This misrepresentation of the real causes behind child abandonment influenced the government's response to the problem of children deprived of parental care. Confirming my hypothesis, the reform of the national child-care legislation, which stretched over more than thirteen years, led to a series of unintended effects, which I focus on next.

The Legal Reaction to Children Deprived of Parental Care and Its Unintended Consequences

Beginning in 1990, the Romanian government's response to the challenge of children deprived of parental care bore the influence of intersecting pressures on the part of (a) international actors (e.g., the European Union and the United Nations), requiring internal implementation of the general principles on the rights of the child, and (b) internal problems due to persisting child abandonment and poverty. Government attempts to balance these influences led to a set of more than twenty-
three laws that, nonetheless, failed to be implemented effectively. In addition to being ineffective, these laws produced no less serious an outcome than bureaucratic corruption and commodification of children, ultimately leading to the moratorium on international adoption.

The analysis of the laws’ provisions presented in Table I offers important insights into the mechanism of the institutional response to the problem of abandoned children. First, the intent behind the various pieces of legislation becomes visible, as does the extent to which their practical outcomes actually match the legislators’ purposes. Second, it becomes possible to distinguish between two main phases in the government’s response to children deprived of parental care, corresponding to a shift in the general outlook on the phenomenon of child abandonment and the increase in international political pressures. The laws ratified in the 1990–94 period delineate the first phase, while the legal acts ratified between 1997 and 2001 define the second phase. The interval 1995–96, characterized by ratification of the Hague Convention, marked a transition between the two.

Deinstitutionalization Through Adoption, 1990–1994

Assuming that child abandonment was an inherited but temporary social problem, in the early 1990s, the government focused primarily on two issues: on the high number of children institutionalized prior to 1989 who had already suffered severe physical and psychological deprivation, and on the international requirement that Romania would align its inner regulations to international child protection standards. In practical terms, this meant dramatic legal reform, but it also meant removing children from inadequate institutional environments. Since at that point no Romanian foster care system existed, the social measure of adoption seemed the quickest and soundest solution for institutionalized children.

It is in this context that the UN Convention became part of the Romanian legal system. Together with the Hague Convention, this treaty, which covers the whole area of child protection and welfare measures, establishes the institution of intercountry adoption and sets the frame within which this measure could be applied. In addition, Law no. 11/1990 on Consent to Adoption and Law no. 43/1993 with Regard to the Juridical Declaration of Child Abandonment created the legal path for removing children from residential centers. While Law no. 11/1990 set the concrete procedures for adoption, Law No. 47/1993 regulated child abandonment by court decision in response to the increasing number of children who, despite having a family, were not receiving family care. They were “forgotten” in maternity and pediatric hospitals and could not be adopted due to their uncertain legal status.

Not long after the enforcement of these provisions began, they produced serious unintended results, especially in relation to international adoption. Corruption among state bureaucrats involved in adoption procedures increased, as did incidences of purchasing children from their birth families. Altogether, these negative outcomes provoked strong public disapproval, prompting the Romanian gov-
<table>
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<tr>
<th>Date</th>
<th>Law</th>
<th>Summary: What the law says/does</th>
<th>Purpose: Intended effect of the law</th>
<th>Outcome: Unintended/actual effect</th>
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<tbody>
<tr>
<td>1990</td>
<td>Ratification of UN Convention on the Rights of the Child</td>
<td>Sets the international legal framework for the protection of the rights of children</td>
<td>To provide the general principles and standards for the protection of children</td>
<td>International principles of child protection became part of the Romanian law</td>
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<td>1991</td>
<td>Law no. 11</td>
<td>Abrogates obsolete legal dispositions from pre-1989, created the Romanian Committee for Adoption (RCA), transfers responsibility for resolving applications for adoptions to the courts</td>
<td>To provide the legal framework for national and international adoption</td>
<td>International adoption of children directly from their birth families instead of institutions, commodification of children, corruption</td>
</tr>
<tr>
<td>1993</td>
<td>Law no. 47</td>
<td>Regulates the possibility of declaring a child abandoned by court decision: a child under the care of a state institution for social or medical care, of a legally set-up private institution or legally entrusted to a physical person may be declared abandoned by court decision if, for a period of at least six months the parents did not have any contact with him/her</td>
<td>To enable children abandoned de facto to become eligible for adoption</td>
<td>Speeded up the process of providing legal identity to abandoned children. Once decision 506/1999 became active, it amplified corruption: children were “put aside” for international adoption based on the justification that their legal situation still needed to be clarified</td>
</tr>
<tr>
<td>1994</td>
<td>Ratification of the Hague Convention</td>
<td>Regulates intercountry adoption: establishes the</td>
<td>To create an international legal mechanism to ensure</td>
<td>The international rules surrounding the procedures of intercountry adoption</td>
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<tr>
<td>1995</td>
<td>Modification of Law no. 11/1990</td>
<td>Enlarges the RCA's competence, requires that applications for international adoptions be addressed to the RCA only through an authorized public or private organization functioning in the prospective parents' (solicitors') state of residence. To implement the requirements embodied in the Hague Convention; to reduce corruption. Reduced the number of children adopted from their biological families, increased the supervision of international adoption procedures.</td>
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<tr>
<td>1997</td>
<td>Government decision no. 205</td>
<td>Restructures the public administration at the local level, creates the system of county departments, commissions, and public services, and outlines their generic responsibilities for child-care services. To increase the efficacy of the child welfare system, to reduce institutionalization through children's reintegration into the birth family, foster care and/or early adoption. Created the basis for the foster-care system; negatively affected living conditions in institutions.</td>
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<td>1997</td>
<td>Government decision no. 245</td>
<td>Establishes license requirements for Romanian and foreign private nongovernmental organizations (NGOs) working in the field of protecting children's rights through adoption. To allow the RCA to monitor the activity of private NGOs; to ensure the applicability of Romanian law to international NGOs active in Romania in the field of adoption. International NGOs either entered into agreements/contracts with private Romanian organizations or created their own local entities as Romanian juridical persons; led to the creation of an extended network of private NGOs working in the field of adoption.</td>
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<tr>
<th>Date</th>
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<th>Purpose: Intended effect of the law</th>
<th>Outcome: Unintended/actual effect</th>
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<tbody>
<tr>
<td>1997</td>
<td>Government decision no. 502</td>
<td>Restructures the RCA, expands its authority, details its functions according to the Hague Convention's requirements</td>
<td>To increase supervision and control of adoption procedures, especially with regard to intercountry adoption, to reduce corruption</td>
<td>Increased bureaucracy, in corroboration with decision 506/1999, it created new opportunities for corruption</td>
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<td>1997</td>
<td>Emergency ordinance no 25</td>
<td>Abrogates Law no 11/1990 and other adoption-related legal provisions from the pre-1997 period, establishes the procedures for national and international adoption based on the Hague Convention, establishes the requirements prospective adoptive parents must fulfill, establishes the general criteria under which a child is eligible for adoption</td>
<td>To implement nationally the Hague Convention's provisions, to improve the legal process of adoption, to prioritize national over international adoption, to establish the best interest of the child as the primary reason for adoption</td>
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<td>1997</td>
<td>Emergency ordinance no 26</td>
<td>Regulates substitute care, establishes the occupation of professional maternal assistant (foster caretaker), sets up the institutions responsible for implementing child protection measures at the local level, transfers the responsibility for the child-care institutions to the local public administration authorities</td>
<td>To prevent/reduce institutionalization by creating a network of foster parents, with assistance to families in difficulty; to improve the conditions in residential childcare centers through deinstitutionalization</td>
<td>Many people became foster parents without having the necessary experience of caring for a child; the foster parents and children were insufficiently supervised; reduced the number of institutionalized children only temporarily, negatively affected the living conditions in state-run placement centers</td>
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<tr>
<td>Year</td>
<td>Act Type</td>
<td>Description</td>
<td>Purpose</td>
<td>Side Effects</td>
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<tr>
<td>1999</td>
<td>Government decree no. 117</td>
<td>Abrogates Government decree no. 205, reestablishes the organization and the tasks of the local Commissions and Public Services with regard to child protection services</td>
<td>To improve the functioning of the local commissions and public services.</td>
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<td>1999</td>
<td>Government decree no. 506</td>
<td>Corrects a juridical insufficiency of Emergency ordinance no 121/2001</td>
<td>To create opportunities for discriminatory treatment based on different judgment of “the best interest of the child”</td>
<td>Created unfair competition among private NGOs; created the idea of a market for children; national social services for child protection became dependent on intercountry adoption; disfavored national adoption; increased corruption</td>
</tr>
<tr>
<td>2001</td>
<td>Emergency ordinance no. 121</td>
<td>Suspends for one year all procedures regarding the adoption of Romanian children by foreign citizens or by Romanian citizens residing outside the country</td>
<td>To allow for the development of a better legal system for child protection in general, and for adoption specifically</td>
<td>Many foster parents ceased to receive their salaries, deprived many institutionalized children of the chance of a family</td>
</tr>
<tr>
<td>2001</td>
<td>Emergency ordinance no. 161</td>
<td>Modifies Emergency ordinance no. 121, provides that all applications for adoption sent to court before Emergency ordinance no. 121/2001 became active, as well as those already in an advanced stage of being processed, will be resolved according to Law no. 25/1997; provides that in exceptional situations imposed by the superior interest of the child, the government may approve placement of new applications for international adoptions before the court</td>
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ernment to increase the complexity of the internal legal framework surrounding adoption.

**The Transition Period, 1995–1997**

Legislation between 1995 and 1997 set the stage for the transition from adoption as the main solution for abandoned children, to employing a combination of social protection measures to assess their needs. During this period Romania ratified the Hague Convention in direct response to the request of international actors, especially the European Union, for more efficient internal legislation and closer supervision of international adoptions. However, neither the ratification nor the update of the domestic adoption law to which it led, resolved problems within the child protection system. Largely responsible for their persistence was that the new dispositions, while indeed emulating the international model (e.g., the 1995 revision of Law no. 11/1990), did not address major factors of children’s distress, such as lasting poverty, insufficient support for poor families, and the lack of child abandonment prevention programs.

The combination of these factors, on the other hand, led to an increase in the number of children in institutional care of various forms, whose living conditions, although better than in 1990, were still far below international standards. Consequently,

> European Union delegates repeatedly and vehemently required the closing down of as many residential child-care centers as possible, and the creation of a foster system.

—Former high-ranking official in the Ministry of Health

The enduring occurrence of child abandonment despite decreasing fertility rates, coupled with growing external pressure for improved child care, finally opened the second main phase in the government’s response to children deprived of parental care: the shift, beginning in 1997, toward foster placement and the prevention and/or reduction of child abandonment.


Child protection regulations adopted in 1997 reflected three major government intentions: The development of a national network of foster parents, an increase in child-care service efficiency, and reformation of the child-care organizational structure to increase the applicability of the Hague Convention’s stipulations. Politically, the laws represented a direct response to external pressures requiring the establishment of foster care, increased overlap between international treaties on child protection and internal provisions, and more emphasis on national rather than intercountry adoptions. Once again, however, the practical legal outcomes called institutional efficiency into question. Instead of eradicating corruption and improving child-care services, application of the legal dispositions often led to
more problems, such as inadequate foster placements, excessive bureaucratization, and child trafficking.

The promulgation order of the 1997–2001 child protection regulations reveals the vicious circle through which undesired negative results continued to accumulate despite legislators’ intentions. To fix unexpected problematic outcomes produced by a previous law, the government issued a new, supposedly improved, piece of legislation. While the newer law indeed addressed part of the problems, it also created other unexpected negative effects, prompting the government to further legal change, which itself produced more unexpected negative consequences. This situation is apparent in all major areas of the 1997–2001 Romanian child protection reforms, from public administration restructuring to revisions of the procedures for international adoption.

At the administration level, the government transferred responsibility for childcare institutions from the central to the local public administration. According to a former high-ranking official in the Ministry of Health (three years’ experience), this measure was intended “to increase the quality standards in residential care centers because public local authorities have a better perspective on the situation in their subordinated counties.” The immediate effect, however, was the opposite. Because overly rapid decentralization outpaced the fundraising efforts of the inexperienced local public administration authorities, childcare institutions experienced a decline in living conditions.

Although the government designed the implementation of regulations to accelerate the pace of deinstitutionalization through foster care, to correct the weaknesses of the adoption legislation, and to improve collaboration between central and local public administration, as well as between public institutions and private NGOs, more unintended consequences resulted. A relevant case is the Emergency Ordinance 26/1997, which established foster parenting as an occupation. While part of its goal was achieved, namely, creating a large network of foster parents in a relatively short time, insufficient supervision of the foster parents and of the children after their placement within the foster family became rampant. In many cases, foster placement is in fact a trap. Many children are placed with families or professional assistants, so when you look at the number of institutionalized children, the result shows that this has decreased. In reality, foster placement is a temporary measure and often there are no sufficient preparations for the next step, namely, a permanent solution.

—Economist, project coordinator in a private NGO, two years’ experience

Technically, the 1997 body of laws was much better than the previously adopted regulations. Nonetheless, due to inefficient implementation and to the fact that some of the laws, while closely replicating international dispositions, were insufficiently tailored to the Romanian context, practical results continued to be well below international requirements. This was especially true in regard to the ratio of national to international adoptions, as the rate of national adoptions remained far below that of intercountry adoptions.
Romanians have limited economic possibilities and a different conception of, and attitude toward, adoption. While foreigners adopt even if they have their own biological children, and are willing, for the most part, to adopt Roma children, in our country only biologically infertile people may consider the possibility of adoption. And 90 percent of those thinking of adopting will not have a Gypsy kid.

—High-ranking official in the Federation of National NGOs involved in developing child protection programs, eleven years’ experience

With the majority of children deprived of parental care still in institutional care of various types, faced with persisting economic problems, low national adoption rates, and aware of the potential resources within the measure of intercountry adoption, in 1999 the government decided to link international adoption to the promotion of other social services.

The state needed money for financing the social programs for children. Private NGOs working in Romania as representatives of international organizations had funds. Through the “point system,” the state decided to link their activity in the field of international adoption to the promotion of other social services for children in distress; that way, from one child’s international adoption, another ten of those remaining behind would benefit.

—Former high-ranking official in the Ministry of Health, twelve years’ experience

Through Decision no. 506/1999 Regarding the Methodology of Assigning the Task of Finding an Adoptive Parent or Family and of Supervising the Adoption or Children Registered with the Romanian Committee for Adoption (hereafter “RCA”), the RCA could assign the task of finding an adoptive parent/family to authorized Romanian private organizations (hereafter “APOs”) based on the amount of points they received from the local public administration authorities. Theoretically, the point system offered objective criteria for assigning adoptable children to the various APOs based on their contribution to social services. In practice, however, Decision 506/1999 led to an auction of advantages.

Including sponsoring and donations among the point-generating criteria allowed financially more powerful NGOs to make higher donations. In turn they received more points and consequently were assigned more children. Whereas smaller organizations, which, although more serious and correct, had less money, received fewer points. The system generated a competition based primarily on money, and not on the quality of the social services being offered.

—Former high-ranking RCA official, twelve years’ experience

The system also intensified corruption within the state apparatus and occasionally led to preferential treatment of international prospective parents. A high-ranking official in the Ministry of Health explained:

The local child protection service, aware that the child was abandoned de facto, was placing him on the RCA list with adoptable children, although the criteria for the juridical declaration of abandonment were not yet met. The child was
“held” there until all the legal forms were completed. Meanwhile, the private NGO, which already knew about this child, was obtaining the necessary documents for an international adoption. If within this interval a Romanian family requested to adopt that particular child, it was told that, due to incomplete legal procedures, the child was not yet adoptable.

At the same time, the direct link between monetary contributions and the allocation of adoptable children raised concerns about children being treated as commodities, and stirred heated debates over the morality of the adoption procedures. External pressures grew stronger, and the 2001 draft report on Romania’s Membership Application to the European Union and the State of Negotiations recommended that “accession negotiations should be suspended” unless the problems regarding child abandonment, “child abuse and neglect, international adoption, and child trafficking” are be addressed. The report further underlined the necessity of suspending international adoption “for at least two to three years.”

In response, Romania imposed what was intended at the time to be a one-year moratorium on international adoption. Emergency Ordinance no. 121/2001, which suspended all procedures regarding the adoption of Romanian children by foreign citizens or by Romanian citizens residing outside the country, provoked a new wave of criticism because it suspended even those cases for which the court procedures had already started (thus overstepping the general law), and it went against the interest of international actors who supported intercountry adoption (e.g., the United States and Israel).

To at least partially accommodate the wishes of international actors seeking continuation of intercountry adoption, a few months later the government issued Emergency Ordinance no. 161 Regarding the Completion of Emergency Ordinance 121/2001. This regulation created a fissure in the ban on international adoption by providing that, in exceptional situations imposed by the superior interest of the child, and at the proposal of the National Authority for Child Protection and Adoption, the government could approve the placing of new applications for international adoptions before the court. It was not until 2004 that the government reassessed the moratorium, putting in its place the even more puzzling requirement that international adoption be considered only if one of the prospective adopters is the child’s grandparent.

Summary and Discussion

In the Romanian case, the postcommunist era legal reform of the child protection system created a series of unintended negative results, such as excessive bureaucratization, corruption related to the practice of international adoption, and child trafficking. Ultimately, these consequences stemmed from the strain associated with internal societal transformation on one hand, and with the international context, on the other. Specifically,

[T]he government struggles between two centers of pressure, each requiring the opposite of what the other solicits: in the first case, the European Commission
requires the suspension of international adoption under the threat of stopping the accession negotiations to the EU; in the second, the US and Israel (but French senators too) pressure for the continuation of international adoption. Again we want to comply, since we want to be accepted into NATO.

—High-ranking official of UNICEF Romania

This is not surprising, given that institutional isomorphism is rarely connected directly to organizational effectiveness or efficiency (DiMaggio and Powell 1983). Instead, organizations change to fit a given accepted practice, even if that practice is not most effective in the given institutional setting. Within the 1990–2001 interval, legal reaction to children deprived of parental care consisted of a succession of more than twenty-three laws, of which six had at their core the social measure of adoption (national and/or international). Technically, the laws improved over time, with some (mainly those regulating international adoption) becoming a close reflection of the corresponding international regulations. In practice, however, they had little success in addressing the needs of abandoned children.

As part of Romania’s response to the problem of children deprived of parental care, public authorities made a series of errors, which, given the complex nature of the ongoing societal transformations, was in itself somewhat predictable. It is striking that after more than thirteen years of trial and error, those who have had to pay for institutional mistakes are those in whose interest this process started, namely, abandoned children. The contribution of this article lies in reconstructing the logic behind the perpetuation of certain social problems (child abandonment) and issues (inability to effectively implement the law) despite purposive social action to resolve them.

Based on analysis of institutional arrangements in the field of child protection, I identify three conditions that explain a large number of unintended problems within the Romanian child welfare system and the neglect of abandoned children’s interests: countervailing internal and external pressures, lack of political accountability, and insufficient child advocacy. I discuss each in turn.

1. The Romanian government’s conflicting priorities and the multitude of political pressures have led to equivocal outcomes in the field of child protection. At least two primary forces have been evident in Romanian political decision making with respect to abandoned children: (a) factors associated with a rapid response to external pressure and (b) factors associated with the struggle between local and national public service provisions. The cross-pressures associated with internal political differentiation and external political pressures resulted in a political climate ripe for unintended consequences. While evident in the Romanian case, such features are likely to be widely present in countries undergoing significant social change.

On the external side, the Romanian government was facing two strong, but ultimately contradictory pressures. First, admittance to the European Union (EU) required building a legal framework that was consistent with that of the EU charter. In purpose, this required providing for the best interest of the child. In practice,
however, a rapid legal change did not come with the necessary increase in economic resources to fund the provisions required by law. Second, wealthy nations, such as Israel and the United States, continued to express a strong demand for children, providing incentives for reliance on international adoption and as a ready home offered for abandoned children. Combined, these forces resulted in an underfunded protection system that contributed to the development of ad hoc arrangements with NGOs, facilitating corruption and child trafficking. This, of course, was in exact contradiction to the EU goal of an ethical child protection system, leading to the eventual suspension of international adoption. This result is not likely to be in the interest of currently abandoned children, and leads to additional pressure from potential child-seeking nations.

On the internal side, poor coordination between the central and local public authorities for child protection, as well as a struggle between provisions at the local and national levels created dysfunction within the Romanian child welfare system that affected both the institutions (i.e., improper conditions in placement centers, weaknesses of the foster-care network) and the accuracy of data on institutionalized children. With regard to the latter, in 2002 local public services repeatedly reported children as permanently deinstitutionalized, while in reality these children were on summer vacation.

Thus, faced with conflicting external (from the EU and the United States, in particular) and internal forces, the tendency of public social actors was to neglect the interests of the group they had to protect in favor of meeting more stringent political requirements.

2. Public actors in the Romanian child protection system were not politically accountable for neglecting to solve the problem of children deprived of parental care. Failing to provide for abandoned children was unlikely to result in loss of significant electoral support. Membership in NATO and in the EU, on the other hand, was overplayed in the political campaign, and the electoral discourse more or less subtly linked Romania's acceptance into these organizations to a sudden betterment of general living conditions. Therefore, failure to meet such objectives would have decreased rulers' legitimacy, putting the leading party at a high risk of losing reelection.

3. Last but not least, Romanian public child protection authorities poorly represented the interests of children because there was no direct pressure toward action exerted by the population of abandoned children. Children constitute a weak actor in a pluralist polity because they have no political voice. Among all groups of the human population, only two are completely unable to directly express and defend their interests: children of young age and severely mentally disabled people. Their interests may be, and usually are, represented by other actors. But the two groups themselves cannot stand up for their rights, which in turn affects their ability to pressure the state for action.

These conditions, particularly in the Romanian case, lead to the following hypothesis regarding successful action in correcting a social problem: the less able
the group representing the social problem is to express its interests, the smaller the pressure on representing agencies; weak pressure in turn translates into weak representation of the group’s interests, thus diminishing the probability of successful social action. This situation is compounded (i.e., interacts) with rapid institutional change, particularly in the early stages of transformation from a less to a more democratic social organization.

Romanian child-care reform after the systemic change points to the fact that global relations extend beyond merely economic processes, highlighting the role of international dynamics whose influence on national systems is not smooth (Giddens 2000). Practically, building new global processes requires a correspondence between international and national development, which in Romania’s case has not been present. International pressure toward institutional isomorphism has resulted in inefficient child-care institutions, creating a tension between globalism and localism that has generated multiple unintended consequences. This has implications for studying social change in Eastern Europe. It suggests that policies requiring internal changes in a country to conform to external exigencies without taking into account cultural (national) specificity, and without sufficient support for implementing such transformations might obstruct organizational efficiency and provide a context for unintended and undesired outcomes. It is worth exploring whether the effectiveness of transformations in response to global challenges depends on member states providing resources to help facilitate such transitions. The role of additional means may be even more important in those cases where the effects of external pressures are amplified through the internal political-administrative organization.

Notes

3. For a more detailed review of the consequences of early institutionalization on child development, with particular focus on East European institutions, see Judge (1999).
4. Attachment behavior is defined as seeking and maintaining proximity and emotional connection with a constant caregiver early in life. The ability to form attachments is acquired as a child moves through the developmental stages, with the first three years being the most important. Attachment to a primary caregiver is essential to the development of emotional security and social conscience (see Bowlby 1969).
5. Foster care should last until the child can be reintegrated into his/her biological family or, if this is not possible, until the child’s adoption.
6. It is during the first three or four years in a child’s life that the nerve connections and neurotransmitter networks form. See Dawson, Hessl, and Frey (1995) and Illig (1998).
8. Since inside knowledge on matters of child protection was crucial to this study, referrals from experts themselves, that is, snowball sampling, represented the best method-
ological approach. For costs and benefits related to snowball sampling, see Singleton and Straits (1999: 99–134).

9. Childless couples, including those who are biologically infertile as well as childless unmarried persons over age twenty-five, had to pay an extra 30 percent tax on their income (see Team work 2001).


13. Team work (2001: 42). Moreover, for the time period 1990–97 UNICEF also records a steep increase in the rate of institutionalization in infant’s homes (places for children age zero to three). For details, see Dickens (1999, 2002).

14. Roma’s overrepresentation among abandoned children creates a new social problem because “most Romanians do not want to adopt gypsy children, first, because of their personal reluctance toward this minority, and second, because they fear the ostracizing reaction of the Romanian community,” as noted by an adoption lawyer with more than eleven years experience. See also Team work (2001) and Stephenson and collaborators (1994).

15. Author interviews; also Team work 2001.


17. Information from author interviews.


20. The legal package included Decision no. 205 Regarding the Organization of the Activities of the Local Public Administrative Authorities in the Field of Protecting Children’s Rights; Decision no. 245 Concerning the Authorization Criteria for Private Organizations That Work in the Field of Protection of Children’s Rights Through Adoption; Decision no. 502 Concerning the Structure and Management of the Romanian Committee for Adoption; Emergency Ordinance no. 25 Concerning Adoption; Emergency Ordinance no. 26 Regarding the Protection of the Child in Distress. See Appendix A and Table 1 for details on these laws.

21. Information from author interviews.

22. Activities for which an APO received points included donations and sponsoring granted to public placement centers and to centers of recovery of handicapped minors, restructuring of public placement centers, expenditures for developing the foster-care system, for funding programs of abandonment prevention, as well as for establishing own care centers. APOs also received points for placing a child within their own care centers, for finding an international adoptive family if the adoption was approved by irrevocable court decision, for finding an adoptive family for children exceeding age six if an irrevocable decision of adoption approval was issued by the court.

23. In October 2002, the suspension was extended for another month; in November 2002 until February 1, 2003; in January 2003, until March 1, 2003; in February 2003, until June 1, 2003; in May 2003 until “the coming into force of the new provisions regarding the legal regime of adoptions” (Law no. 233/2003). Finally, Law 273/2004 lifted the morato-
rium, but limited international adoption to a situation in which the child would be adopted by his/her grandparent.


References


Appendix A: National and International Legal Acts Analyzed for This Study

I. National Legal Acts

17. Romanian Adoption Committee Decision no. 506/August 26, 1999, Regarding the Methodology of Assigning the Task of Finding an Adoptive Parent or a Family and of Supervising the Adoption of Children Registered with the Romanian Adoption Committee, www.romanianadoptionadoptii.ro/english.506.html.
II. International Legal Acts


Appendix B. Respondents' Demographic Characteristics

Of the twenty-three interviewees, eighteen were female and five were male. At the time of the interviews, they were between twenty-nine and seventy-five years old. All informants have a university degree in one of the following areas: sociology, engineering, law, business, social work, or pediatric medicine. The interviewees' experience in child protection issues ranges from two to forty years of work in the child welfare system, with the majority having over eight years of experience. The length of interviews, in cumulative time, ranged between thirty minutes and five and a half hours. The number of contacts was between one and five.