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The Absence of Young Carers in the Polish Legislation

Nieobecność młodych opiekunów w polskim prawie

Abstract: The article analyses the legal acts dedicated to child and family issues in the context of the issue of young carers which is widely addressed internationally. The questions posed relate primarily to the issue of children's rights, their protection, the topic of care and parental responsibility, as well as the problems experienced by the family. The article attempts to demonstrate an important research and legislative gap in relation to the situation of children undertaking caring tasks within the family. The analysis reveals the unidirectional nature of guardianship as perceived in Polish legislation. No provision is made for other mechanisms that may take place within the family, making young carers in this situation unnoticeable.

Keywords: young carers; children's rights; care; Polish legislation.

Abstrakt: W artykule dokonano analizy aktów prawnych poświęconych problematyce dziecka i rodziny w kontekście szeroko poruszanego na arenie międzynarodowej zagadnienia młodych opiekunów. Postawione pytania odnoszą się przede wszystkim do kwestii praw dziecka, ich ochrony, tematu opieki i odpowiedzialności rodzicielskiej, a także problemów doświadczanych przez rodzinę. W artykule podjęto próbę wykazania istotnej luki badawczej i legislacyjnej w odniesieniu do sytuacji dzieci podejmujących zadania opiekuńcze w rodzinie. Analiza ukazuje jednokierunkowy charakter opieki postrzeganej w polskim ustawodawstwie. Nie przewiduje się innych

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mechanizmów czy sytuacji, które mogą mieć miejsce w rodzinie, co sprawia, że młodzi opiekunowie pozostają niezauważalni.

Słowa kluczowe: młodzi opiekunowie; prawa dzieci; opieka; polskie prawodawstwo.

1. Introduction

Young carers are a specific group of people up to the age of 18, while young adult carers up to the age of 25 carry out tasks related to caring for loved ones in the family. From the research carried out so far in the world, starting in the UK where it was pioneered by Prof. Saul Becker, a picture emerges of young people involved in caring for family members while at the same time at risk of many negative phenomena, such as exclusion, poverty, unemployment and other harms. Their problems and experiences, usually hidden behind the closed doors of family homes in the social image, may be invisible. This is why it is so important that these issues are legally sanctioned, as they mean firstly that the problem has been recognised and secondly that it has been deemed important enough to create appropriate solutions for it and the group concerned. The subject of this article is the absence of attention to young carers in Polish legislation. It analyses the content of the most important legal acts in the field of child and childhood protection and the family. The analysis makes it possible to identify the more important gaps in the legislation. The analysis makes it possible to look at the spaces in which this gap becomes apparent. This implies a rather important need to combine perspectives: research, legislative and practical in order to enrich the support system with a new area for attention.

2. Background

2.1. Definition

Research on the situation of young carers is carried out almost all over the world. It was initiated in 1992 in Great Britain as part of the Young Carers Research Group (YCRG), with a research team established at Loughborough University. It began with the identification of the phenomenon and the construction of the conceptual apparatus necessary to describe it (Becker et al.,

2000). Initially, these were only small-scale, qualitative studies (Aldridge & Becker, 1993), identifying this particular experience and constructing a conceptual apparatus to describe it (Becker et al., 2000). From there, various research activities developed intensively in the UK and beyond. Among the effects of this research was the inclusion of the concerns of young carers in social policies in Britain, most notably the advent of the Young Carers' Project, subsidised by the Ministry of Health (Dearden & Becker, 1998). Another effect was the launch of a network of Young Carers organizations operating throughout the country. Currently, the Care Act 2014 and the Children and Families Act 2014 are in force there and they legally define who young carers are and they determine the recognition and support system (Assessment) of young carers. Therefore, Great Britain is considered the most advanced in terms of scientific research on young carers. This advance is evident in recognising and defining the issues that affect social carers; also in social awareness of these issues and in the progressive introduction of measures to address these issues (Joseph et al., 2019; Leu & Becker, 2017; Leu et al., 2023; Leu et al., 2021).

Young carers are:

young people under the age of 18 who provide or intend to provide care, assistance or support to another family member. They perform, often on a regular basis, basic and significant caregiving tasks and assume a level of responsibility usually associated with adults (Becker, 2000, p. 378).

This happens in the family in the event of disability, long-term physical and mental illness, abuse or addiction to alcohol and other substances (Cheesbrough et al., 2017; Children's Society, 2020; Leu & Becker, 2017; Moore, 2005).

The activities undertaken by young carers have been divided into three groups (Warren, 2007). The first group of tasks includes practical help (Cheesbrough et al., 2017), i.e., performing household chores to a much greater extent than peers (Dearden & Becker, 2004; Warren, 2007) The second group involves the so-called general care, including official and financial matters, arranging and accompanying to doctors' appointments and/or hospital visits, and caring for younger siblings (Warren, 2007). In terms of personal and intimate care, young carers regularly: administer medications, give injections, change dressings, support mobility, feed and perform other caregiving activities that violate the intimate area in parent-child relationships, e.g., help with getting

dressed and undressing, bathing, using the toilet (Warren, 2008). The last group of tasks includes emotional support, which is provided in order to maintain the emotional well-being of family members and even conduct some kind of supervision. Care in this case is adapted to the emotional state of the person who needs support and may include – among other things – keeping company or showing care (Warren, 2007). Most researchers agree that young caregivers generally do not have the opportunity to make a choice or to make a conscious decision whether they want to undertake the caregiving tasks or not (Warren & Edwards, 2017). They are usually faced with the obligation to support their loved ones (Children's Society, 2013; Kavanaugh et al., 2016; Lloyd, 2013; Warren & Edwards, 2017). Thus, the key aspects of the functioning of the family as a system come to the fore here. A family functioning as a system creates its internal structure within which it organises specific subsystems, usually according to the criterion of gender or generation, and these are usually parental, marital, child (including siblings) subsystems (Fleming, 2003). This structure determines the system of intra-family and social roles assigned to individual family members (Świętochowski, 2017). Family roles are defined as the repetitive patterns of behaviour by which individuals fulfil family functions. These are routine family tasks such as cooking or taking out the garbage (Miller et al., 2000, p. 171). Their implementation triggers specific mechanisms and processes that enable the stable functioning of the family system as well as its stability and homeostasis (Kim & Rose, 2014).

An important area of interest here is also the transition of young carers to adulthood. Young adult carers (YACs) have been defined as individuals between 18 and 25 years of age who provide informal care to one or more family member(s), a relative, due to physical or mental illnesses, substance abuse, or disabilities in the care-recipient (Becker & Becker, 2008; Haugland et al., 2022). This issue is less recognised than the topic of young carers. However, available research shows associations between caregiving responsibilities and study progress, recreational life, and loneliness in young adults in higher education (Haugland et al., 2022; Sempik & Becker, 2014).

2.2. International studies

As indicated, research on the issue of young carers was initiated in Great Britain, but over the last 30 years it has spread and now it is being carried out in many, not only European, countries. Reports on young carers can be found in Sweden, Australia, Norway, Canada, Switzerland, New Zealand, Italy, Austria, Germany, the Netherlands, Belgium, France, Finland, USA, Ireland, Slovenia, Japan and Greece. The earliest studies which were conducted in the UK provided a profile of young carers consisting of the characteristics, needs and experienced problems of 2,303 young carers aged 18 or under, all of whom are supported by specialist young carers projects. In 1995 and 1998, the average age of young carers was 12 years. More than half were from lone parent families, most of whom were caring for sick or disabled mothers. In 1998, 86% of the young carers were of compulsory school age; 57% were girls and 43% were boys; 14% came from ethnic minority communities. In 1998, the majority of young carers (63%) were caring for someone with a physical illness or disability, 29% were caring for someone with mental health problems, while 14% were caring for someone with a learning disability and 4% were caring for someone with a sensory impairment (Becker et al., 2001).

The UK Censuses 2001 provided an initial estimate of the number of young carers in households. Thus, in 2001 there were 149,942 children and young people aged under 17 undertaking unpaid caring tasks for family, friends or neighbours, while in 2011 there were 177,918 children caring (*The 2001 Census of Population*, 2001; Office for National Statistics, 2011). These estimates were considered inadequate and limited at the time, as they were based on parental declarations, which undoubtedly created a fear of openly declaring children's involvement in caring activities. A 2018 BBC study found that one in 12 children provide medium or high levels of care to a family member or other relative, which equates to 700,000 young carers in the UK (Joseph et al., 2019). However, most authors highlight that, like carers, many young people may not identify themselves as young carers and thus remain hidden from professionals and services (Gowen et al., 2022).

The specificity of young carers' duties was described in The Care and Support Statutory Guidance:

Children should not undertake inappropriate or excessive caring roles that may have an impact on their development. A young carer becomes vulnerable when their caring role risks impacting upon their emotional or physical well-being and their prospects in education and life (Department of Health, 2014, Subsection 2.50).

Most of young carers (78%) undertakes domestic duties like cooking, cleaning, paperwork or helping with chores, 57% of them provide emotional support or supervision, especially to parents with mental health problems and 6% nursing care (Cheesbrough et al., 2017). This means that young carers take on themselves some type of responsibility normally assigned to adults/parents in family and they are also involved in adult spheres of functioning. This phenomenon of reversed roles is called parentification and involves engaging a child in parental subsystem in the family (Becker et al., 2001; Chojnacka, 2022; Chojnacka & Iwański, 2022).

In comparison, studies carried out in other countries also estimate the number of young carers and indicate that they represent between 2–8% of all children under 18 in Australia, the USA, Sweden, Austria, Germany or Japan (Cass et al., 2009; Järkestig-Berggren et al., 2019; Metzging-Blau et al., 2020; Kanehera et al., 2022; Nagl-Cupal et al., 2014; Nordenfors et al., 2014).

2.3. Classification

Agnes Leu and Saul Becker (2017) created a classification defining the levels of advancement of individual countries in terms of research and practical activities related to young carers. It includes seven levels that have been characterised by the authors. They were considered the basis for assessing the manner and quality of responding to the needs of young carers in specific countries.

The first and highest level characterises countries with a wide awareness among both government and society of the experiences and needs of young carers. This highest level also includes the existence of sustainable policies that provide carers with support, conditions for development and opportunities to take care of their own mental well-being and physical health. One can speak about a coherent systemic response to the situation of young carers and the integration of this issue with the entire support system. As it turns out,

according to the authors, no country meets all the criteria in order to be placed on the first level. Great Britain, which has already been mentioned as a pioneer of reflection on the issue of young carers, was placed on the second level in the adopted classification (advanced). This means widespread social awareness and the ability to recognise young carers in society, social policies and – among its co-creators – the introduction of specific (nationwide) legislative solutions, conducting scientific research, national and local strategies, guidance and education for specialists and social services in the field of providing support. The third level, defined as intermediate, identifies societies with a moderate awareness of the realities of young carers, with some small to medium-scale research being conducted and with various regional initiatives for young carers included among the existing social services. The problem is beginning to be noticed at the state level. The following countries can be included on the third level: Australia, Norway and Sweden. On the other hand, Austria, Germany and New Zealand were assigned to the level defined as preliminary. They are characterised by still low social and specialist awareness and the ability to recognise young carers, a limited but growing number of scientific research studies, lack of specific legislative solutions, little if any reaction of social services and rather at the regional level. Level five, referring to Belgium, Ireland, Italy, Sub-Saharan Africa, Switzerland, the Netherlands and the United States, is described as ‘emerging.’ Social awareness of the issue of young care is still low there, and there are no possibilities and methods of diagnosing their situation; research on this subject is rare, although it is slowly increasing. There are, however, no legal solutions in place and no systemic support for young carers. The following countries are placed on the sixth level, defined as ‘waking up’: Greece, Finland, United Arab Emirates and France. Knowledge of young carers as a separate social group among ‘defenceless children’ is referred to here as embryonic. The last level included in the classification is defined as ‘no data.’ Researchers assume that any country not mentioned above is still on this level (Leu & Becker, 2017). The classification allows for a review of research reports and solutions adopted in individual places, shows a specific path that lies ahead of other countries in this respect, and also enables the further analysis of the phenomenon from various perspectives.

2.4. The importance of caring for young carers

There have been several studies (small-scale or national surveys) conducted both in the UK and in other countries that show how being a young carer affects them, their functioning in different areas of one's life. These include mental health, physical health, social relationships, education and material issues.

In the first two areas, young carers particularly experience the overburdened nature of the caring role and its resulting responsibilities and permanent stress (Early et al., 2006; Järkestig-Berggren et al., 2019; Metzging-Blau et al., 2020; Nagl-Cupal et al., 2014). The studies show that one-third of young carers experience mental health problems (Alfonzo et al., 2022; Waters, 2018), and young carers are also five times more likely than their peers to describe their health as 'not good' (Waters, 2018). In addition, they also report experiencing problems such as difficulty sleeping (60%), eating problems (30%), self-harm (34%), suicidal thoughts (36%) (Cree, 2003), as well as lower self-esteem and well-being (Gowen et al., 2022). The existing research highlights, moreover, the highly significant association between young carers' mental problem with their poorer physical condition (Becker & Sempik, 2019). When carrying out caring tasks, young carers are exposed to physical injuries such as overloading the spine when moving the sick person, inadequate diet due to limited financial resources, lack of cooking skills or lack of time (Simon & Slatcher, 2011).

The social relationships and education of young carers run the risk of high rates of isolation and exclusion. Due to their caring responsibilities, they are at a significant disadvantage in terms of their social life and needs, as they often have limited opportunities to get out of the house, meet friends and make new relationships (Frank, 1995; Thomas et al., 2003). This is noticeable both at school, where young carers feel isolated, and outside of school hours, as they are unable to participate in activities, meetings, groups and ways of spending time because they are needed at home (Moore et al., 2009). Young carers being at school does not make them able to forget about caring concerns. As many as one third of young carers (36%) experience bullying at school (Cree, 2003). Their education also is usually affected by their caring responsibilities. Research indicates that 27% of young carers experience educational difficulties, problems related to punctuality or attendance in lessons, as well as concentration on learning and homework (Barnardo's, 2017; Blyth et al., 1995; Cree, 2003). This is due to the need to stay at home and support family members, or to get up

very early to complete all care tasks in time (McAndrew et al., 2012). The consequence of this is poorer educational outcomes and achievement for young carers compared to their peers (Brown & Kerrigan, 2018; Lloyd, 2013). It means also another educational disadvantage – limited career choices and opportunities. Being a young carer can have long-term effects on the carers' future life, especially as caring responsibilities do not usually end when they reach adulthood and young carers become young adult carers (Underdown, 2002).

A third type of difficulty experienced by young carers is poverty, which also negatively affects their education. They struggle to afford full school supplies, such as uniforms, books, stationery, transport and even food, and do not have the opportunity to participate in school trips or extra classes (Moore et al., 2009). In addition, they are concerned about supporting the family and providing financial resources. As many as 48% are concerned about covering their family's material needs (Cree, 2003). Their income tends to be lower compared to the families of their peers, and one can also speak of deprivation of needs (Vizard et al., 2019). The difficult financial situation and limited prospects for its improvement make it possible to see young carers as a group particularly vulnerable to social exclusion and intergenerational transmission of the problems from their family.

There is also evidence from research showing positive outcomes of care-giving, as indicated by young people. The evidence relates to competences like sense of maturity, empathy, self-reliance (East, 2010). Involving young people in housework can influence their self-esteem, their sense of being needed and useful in the family and even contribute to the development of their competence and sense of agency (Kuperminc et al., 2009). Being a carer becomes part of their identity. Young carers report having higher levels of sensitivity and compassion for the needs of others, and the need to respond to them, compared to their peers. Many studies highlight that caring tasks play an important role in the transition to adulthood. Young carers, because of their early involvement in adult duties, are better prepared for adulthood than their peers (Tipper, 2012).

In fact, even positive outcomes are connected with negative ones, which means that it is impossible to identify unambiguous consequences of being a young carer, especially in view of the family role reversals it involves (Chojnacka, 2021).

3. Method

The analyses undertaken in this article are an attempt to identify a legislative gap in the issue of young carers in Poland. Their starting point was to ascertain the position in Poland and examine the rights of young carers in Poland's legislation.

In the light of the above, the following research questions were formulated:

- How and in which areas does the law in Poland provide for the protection of children's rights?
- What is the context of care and parental responsibility for the child in Polish law?
- What family problems are recognised in Polish law as needing attention and action?
- Do existing child protection laws in Poland provide any rights for young carers, and in what way?
- Does legislation in Poland address the needs and any rights of young carers and in what way?

Searching for answers to the questions posed in this way, an analysis was made of the content of the legal acts (Constitution, laws, regulations, conventions) in force in Poland, which refer directly or indirectly to the issue of child protection. The following acts have been analysed: Constitution of the Polish Republic, Convention on the Rights of the Child, Law on the Ombudsman for Children, Family and Guardianship Code, Social Welfare Act, Family Support and Foster Care Act, Education System Act, Education Law, Regulation on the rules for organising and providing psychological and pedagogical assistance in public kindergartens, schools and institutions, Support and Rehabilitation of Juveniles Act, Law on the prevention of domestic violence.

The table below provides a brief overview of the documents analysed.

Table 1. Characteristics of the analysed acts

Constitution of the Polish Republic	<p>The Basic Law of the Polish State, which sets out the principles of the state system (Chapter 1), the position of the individual vis-à-vis the public authorities (Chapter 2), the system of sources of law (Chapter 3) and the organisation of competences, forms of action and mutual relations between the most important state authorities.</p> <p>It is the most important legal act in Poland.</p> <p>It deals with the protection of children's rights, their care and upbringing, the welfare of the family and the protection of citizens.</p>
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Table 1. (cont.)

<p>Convention on the Rights of the Child</p>	<p>An international convention adopted by the UN General Assembly on 20 November 1989, which formulates all the rights of the child based on the principles of: the welfare of the child, equality, respect for the rights and responsibilities of both parents and state support. The catalogue of rights and freedoms includes civil, social, cultural, political rights and, by definition, gives little consideration to economic rights (the child should study, not work).</p>
<p>Law on the Ombudsman for Children</p>	<p>A document setting out the principles for the appointment and operation of the Ombudsman for Children in Poland.</p>
<p>Family and Guardianship Code</p>	<p>It forms the basis of Polish family law, comprehensively regulating family relations. It covers such parts as marriage, kinship and affinity, guardianship and curatorship.</p>
<p>Social Welfare Act</p>	<p>The Act defines: tasks in the field of social assistance; types of social assistance benefits and the principles and procedure for their granting; organisation of social assistance; principles and procedure for social assistance control. In addition, it defines problem situations outlining in advance the criteria for receipt of financial and other support.</p>
<p>Family Support and Foster Care Act</p>	<p>An act regulating legal issues related to supporting the family and the foster care system. It defines: the principles and forms of supporting a family in difficulties, the principles and forms of exercising foster care and the process of independence of its wards reaching adulthood, the tasks of public administration in the area of supporting the family and the system of foster care, the tasks in the scope of adoption proceedings. It also introduces the institution of a family assistant.</p>
<p>Education System Act</p>	<p>An act regulating issues related to the educational system in Poland. It lays down, i.a., the system of external examinations, material assistance for pupils, principles for assessment, classification and promotion of pupils in public schools, types of schools and kindergartens, principles for fulfilment of pre-school preparation, compulsory schooling and compulsory education, principles for financing education, principles for operation of private schools and kindergartens, scope of competence of headmasters of institutions. In the context of the considerations undertaken here, the issues of supporting pupils, providing care for them and taking preventive measures were considered important.</p>
<p>Education Law</p>	<p>An act introduced as part of the 2017 education reform, regulating some issues, such as, types of schools and kindergartens in Poland, rules for the organisation of pre-school education, rules for the management of public schools and institutions, rules for admission to public institutions, rules for the education of persons from abroad or rules for the operation of teacher training institutions.</p>

Table 1. (cont.)

Support and Rehabilitation of Juveniles Act	The Act takes up issues related to the handling of cases where minors commit the most serious crimes, such as murder or rape. It establishes new rehabilitation facilities, an age of responsibility for behaviour in breach of the legal order, new powers for school principals to prevent demoralisation.
Regulation on the rules for organising and providing psychological and pedagogical assistance in public kindergartens	The regulation defines the principles and forms of psychological and pedagogical assistance in schools and educational establishments, which is aimed at supporting the student in his/her functioning and creating conditions suitable for development.
Law on the prevention of domestic violence	The document defines: tasks related to the prevention of domestic violence, rules of conduct for persons affected by domestic violence and rules of conduct for persons using domestic violence. The rules laid down here relate to family life and aim to protect family members.

Own elaboration.

Analysis

The MAXQDA 2022 programme was used to analyse the selected documents. The first step was to create a codebook based on the main problem areas:

1. Protection of children and their rights – this is the basic category used in the first research question and is crucial in the context of the issue addressed in the article. Indeed, the situation of young carers poses a significant threat to their childhood and respect for their rights as children.

2. Care and parental responsibility – the notion of parental authority is still in force in Polish legislation, however, there are ongoing discussions and actions among educators, lawyers and politicians to change this terminology in favour of parental responsibility (Łopatkiewicz, 2022). The situation of young carers touches on issues related to a kind of inverted responsibility in the family, where children are in charge of caring for others, including adults.

3. Problems of the family and supporting it in difficulties – this is a category covering problem situations in the family defined in the law which disrupt its proper functioning and may adversely affect society. Many of these overlap with situations in which children become young carers. Hence, the forms of support for families experiencing difficulties, as defined in the law, are included in this category.

The above categories were considered to set the stage for further analysis of the documentary data. All documents were coded according to the guidelines of the coding matrix and then collated with each other in relation to the research problems posed.

4. Results

The categories identified as main ones became a kind of indicator for navigating through the analysed documents. This is because the researcher's task here was to discern from the content covered the key perspectives on young carers' issues. The first problem area was child protection and children's rights, covering defining the child and childhood, children's rights and their respective categories, and actions to protect the child and childhood. The second main category was parental responsibility, which in Polish legislation still operates under the concept of authority. In fact, it points to the parents' duty of care for the child, which in the context of the considerations undertaken here, unambiguously determines this direction of care. The last problem area refers to the functioning of the family, its problems and support provided to it. In the analysed legal acts, there was a search for provisions which defined and regulated these issues. In table 2, these main categories are compared with the documents in which they were identified and the codes assigned to them.

Table 2. Occurrence of main categories in the documents analysed

Main categories	Documents	Codes
Protection of the child and their rights	Constitution of the Polish Republic	Children's rights: public rights, cultural rights, personal rights, social rights
	Convention on the Rights of the Child	Defining the child and childhood Children's rights: public rights, cultural rights, personal rights, social rights, economic rights Actions for the protection of the child and childhood
	Law on the Ombudsman for Children	Defining the child and childhood Children's rights: public rights, cultural rights, personal rights, social rights, economic rights Actions for the protection of the child and childhood
	Family and Guardianship Code	Actions for the protection of the child and childhood

Table 2. (cont.)

Main categories	Documents	Codes
Protection of the child and their rights	Family Support and Foster Care Act	Defining the child and childhood Children's rights: public rights, cultural rights, personal rights, social rights, economic rights Actions for the protection of the child and childhood
	Education System Act	Children's rights: cultural rights, social rights
	Education Law	Children's rights: public rights, cultural rights, personal rights, social rights
	Support and Rehabilitation of Juveniles Act	Children's rights: cultural rights Actions for the protection of the child and childhood
	Regulation on the rules for organising and providing psychological and pedagogical assistance in public kindergartens	Actions for the protection of the child and childhood
Parental responsibility	Constitution of the Polish Republic	Care of the child's person, representation, care of the child's property
	Convention on the Rights of the Child	Care of the child's person
	Family and Guardianship Code	Care of the child's person, representation, care of the child's property
	Support and Rehabilitation of Juveniles Act	Care of the child's person, representation
Problems of the family and supporting it in difficulties	Constitution of the Polish Republic	Family functions Types of family problems Family support
	Convention on the Rights of the Child	Family functions Family support
	Family and Guardianship Code	Family support
	Social Welfare Act	Family functions Types of family problems Family support
	Family Support and Foster Care Act	Family functions Types of family problems Family support

Table 2. (cont.)

Main categories	Documents	Codes
Problems of the family and supporting it in difficulties	Education System Act	Types of family problems Family support
	Education Law	Family functions
	Support and Rehabilitation of Juveniles Act	Family support
	Regulation on the rules for organising and providing psychological and pedagogical assistance in public kindergartens	Types of family problems Family support
	Law on the prevention of domestic violence	Types of family problems Family support

Own elaboration.

4.1. Protection of the child and their rights

Two acts directly define who the child is:

Convention on the Rights of the Child (1991): 'For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier' (art. 1).

Law on the Ombudsman for Children (2000): '1. For the purposes of the Act, a child is any human being from conception until the attainment of majority. 2. The reaching of the age of majority shall be determined by separate regulations' (art. 2).

Separate regulations refer to the Civil Code (1964), which states that 'An adult is one who has attained the age of eighteen years' (Article 10, § 1) or 'By entering into marriage, a minor comes of age' (Article 10, § 2).

Precisely defining the child as a person who has not reached the age of majority makes him or her a unique addressee of measures related to the granting and protection of children's rights. Hence, the next step was to search

in the analysed documents for fragments and references defining children's rights and their categories – rights: personal, social, public (political), cultural, economic. These were identified in three of the analysed documents, the most dominant of them was the Convention on the Rights of the Child. The results of these explorations are presented in Table 3.

The categories of children's rights listed in Table 3 determine the most significant areas of children's functioning where the need to protect their rights is perceived. The main document in this respect is the Convention on the Rights of the Child, which defines and, so to speak, enshrines these rights and, most importantly, sets the course of action to protect the child and childhood. Others are:

- Law on the Ombudsman for Children, which establishes the Ombudsman for Children, who 'upholds the rights of the child as set out in the Constitution of the Republic of Poland, the Convention on the Rights of the Child and other laws, with respect for the responsibilities, rights and duties of parents' (Law on the Ombudsman for Children, 2000, art. 1, pt. 2). The Ombudsman for Children's Rights is guided in his/her actions by the good of the child (Act on the Ombudsman for Children's Rights, 2000, art. 1, pt. 3), strives to ensure conditions for the harmonious development of the child, to protect the child from violence, neglect, demoralisation or exploitation, promotes the rights of the child and methods of their protection (Act on the Ombudsman for Children's Rights, 2000, art. 3, pt. 1–5).
- Family and Guardianship Code – provides for the care of a child when his or her welfare is at risk through an order of the guardianship court. It means an obligation of the parents to behave in a certain way, to make use of the provided forms of family support. In addition, the Code sets out the circumstances for limiting or terminating parental authority when the child's welfare is at risk (Family and Guardianship Code, 1964, art. 109, § 1–2) and prohibits corporal punishment of children (Family and Guardianship Code, 1964, art. 961).
- Family Support and Foster Care Act – the document is obliged to take the voice of the child into account in its planned activities, in terms of family support and foster care (Family Support and Foster Care Act, art. 4a). All actions are taken with the best interests of the child in mind

Table 3. Categories of children's rights in the analysed documents

<p>Personal rights</p>	<p>Right to life (Convention on the Rights of the Child, 1991, art. 6, pt. 1) Right to stay and not be separated from parents except situations, when competent authorities decide, that such separation is necessary for the best interests of the child (Convention on the Rights of the Child, 1991, art. 9, pt. 1) The right of the child to be protected from all forms of physical or mental violence, harm or neglect or ill-treatment or exploitation (Convention on the Rights of the Child, 1991, art. 19, pt. 1) The right of a child who is temporarily or permanently deprived of his or her family environment or who, for reasons of his or her well-being, cannot remain in that environment, will be entitled to special protection and assistance from the State (Convention on the Rights of the Child, 1991, art. 20, pt. 1) The right of the child to defend himself or herself against any other form of exploitation, in any aspect, that violates the child's welfare (Convention on the Rights of the Child, 1991, art. 36) The right of the child to be brought up in a family or in forms of foster care, to be returned to his or her family, to maintain personal contact with his or her parents, to have a stable educational environment, to be protected from interference in the child's life, to be protected from degrading treatment and punishment (Family Support and Foster Care Act, 2011, art. 4, pt. 1–4, 7, 9)</p>
<p>Social rights</p>	<p>The child's right to adequate living and development conditions (Convention on the Rights of the Child, 1991, art. 6, pt. 2) The child's right to social protection (Convention on the Rights of the Child, 1991, art. 26) The right of the child to a level of living adequate for his physical, mental, spiritual, moral and social development (Convention on the Rights of the Child, 1991, art. 27, pt. 1)</p>
<p>Public rights</p>	<p>The child's right to identity (name, nationality), to know his or her parents and to be cared by them (Convention on the Rights of the Child, 1991, art. 7, art. 8, pt. 1) The child's right to information and to express his or her opinion on matters that affect him or her (Family Support and Foster Care Act, 2011, art. 4, pt. 8)</p>
<p>Cultural rights</p>	<p>Children's right to education (Convention on the Rights of the Child, 1991, art. 28) The child's right to rest and leisure, play, recreation and participation in cultural and artistic life (Convention on the Rights of the Child, 1991, art. 31)</p>
<p>Economic rights</p>	<p>Child's right to financial security from parents (Convention on the Rights of the Child, 1991, art. 27, pt. 2) The right of the child to be protected from economic abuse, from work that may be dangerous or that may be in conflict with the child's education, or that may be harmful to the child's health or physical, mental, spiritual, moral, or social development (Convention on the Rights of the Child, 1991, art. 32)</p>

Own elaboration.

and to ensure that the child has the right conditions for development (Education Law, 2017, art. 1).

- Support and Rehabilitation of Juveniles Act – the law assumes that in cases of juveniles committing an unlawful act, the primary consideration should be the welfare of the child and in re-socialisation actions the aim of achieving positive changes in personality (The Support and Rehabilitation of Juveniles Act, 2023, art. 3, pt. 1).
- Regulation on the rules for organising and providing psychological and pedagogical assistance in public kindergartens – the regulation assumes that psychological and pedagogical assistance in institutions consists in recognising and meeting the individual developmental and educational needs of the student, recognising his/her individual psychophysical capabilities and environmental factors influencing his/her functioning in the institution (Regulation of the Ministry of Education, 2017, § 2). According to the regulation, psychological and pedagogical assistance is provided, among others, in the form of classes developing talents, specialist classes, counselling and consultations, therapeutic classes, classes developing learning skills, didactic and compensatory classes, workshops (Regulation of the Ministry of Education, 2017, § 6).

The presented analyses of the occurrence of categories referring to children's rights in selected legal acts makes it possible to identify the specific presence of the issue of children's rights in Polish legislation. Actions on behalf of the child and childhood and the family refer to the main areas of the child's functioning – family, school and foster care.

4.2. Custody and parental responsibility in the light of the legal acts analysed

Based on the above analyses in the area of children's rights and their protection, the issue of the child's right to care, both in the most primary form, i.e. in the family, and in institutional form, deserves special attention (Kolankiewicz, 2006; Kusztal, 2021). Care is the fundamental activity towards the child, carried out by the guardian, who is responsible for the child's health, education, independence or socialisation. The guardianship of a child lasts until the age of 18, i.e. until the child becomes relatively independent in life (Gajewska, 2009). The documents

analysed here therefore searched for fragments that directly referred to care. A lexical analysis of the text was carried out taking into account words and phrases: 'care,' 'caring.' This analytical procedure was chosen in order to recognise the contexts in which the issue of care is addressed in the acts analysed and, at a further stage, to answer the question of whether there are provisions in the acts that directly or indirectly refer or could refer to young carers.

The word 'care' is a reflection of the action taken by the carer towards the mentee, which is at the heart of the analyses undertaken here. Its presence was found in the following documents: The Constitution of the Republic of Poland, the Convention on the Rights of the Child, the Family and Guardianship Code, the Social Welfare Act, the Act on Family Support and the Foster Care System, the Education System Act, the Education Law, the Act on the Support and Rehabilitation of Minors. In each of these, care is viewed in two ways. The first is the action taken by parents towards children, it is treated as one of the fundamental rights of the child, which the State is obliged to protect by taking initiatives in favour of the family and its stability. The second is the action taken by the State and the institutions representing it in favour of children who are left without proper or any kind of care, as well as action to provide reliable health care. The legal acts analysed therefore mainly consider unidirectional care, oriented towards the child or incapacitated, dependent persons. The role of carer is thus exclusively that of an adult, whose duty it is to provide the child with appropriate conditions for development, safety and emotional support. Such an approach is in fact about the responsibility of adults (parents, institutions) for the child's person, upbringing, development. These issues are regulated in detail by the Family and Guardianship Code and the Act on Social Welfare and the Act on Support for the Family and the Foster Care System. In the course of the analysis, no provisions were found providing for the custody by minors in the family over other family members.

4.3. Family problems in Polish legislation

Another theme for analysis concerns the difficulties experienced by the whole family, which significantly affect its functioning, the care and parenting processes and therefore the individual family members. In this section, an attempt is made to answer the question: which family problems are considered in the

documents analysed to be important and in need of action? Table 4 lists the family problems along with their occurrence in the individual documents.

Table 4. Types of family problems in the documents analysis

	Constitution of the Polish Republic	Social Welfare Act	Family Support and Foster Care Act	Education System Act	Law on the prevention of domestic violence
Financial difficulties/poverty	V	V		V	
Multi-child family	V	V		V	
One-parent families/single parenthood	V			V	
Disability: physical and intellectual	V	V			
Orphanhood		V	V	V	
Homelessness		V			
Unemployment		V			
Domestic violence		V			V
Alcohol addiction		V			
Drug addiction		V			
Old age		V			
Chronic diseases: mental and physical		V		V	

Own elaboration.

The problems identified in Table 4 may be part of particular phases of family development, such as old age and multiple children as normative crises. However, most of the documents analysed recognise the non-normative family experiences that do not come from the natural course of life, but are a consequence of events, independent of this course of life (Liberska, 2017). The former, by virtue of their specific severity, may constitute an impediment to the family's daily functioning. However, it is the latter that threaten its stability, the performance of its functions, the provision of security for its members and adequate conditions for development, which is widely described in the literature (Janicka & Liberska, 2017; Szlendak, 2010; Grzegorzewska, 2011).

The analysed documents, in addition to indicating the above-mentioned problems, also contain formulated guidelines, regulations on specific actions supporting a family experiencing specific difficulties. Also, in connection with this issue, the topic of intra-family supports for childcare for family members does not appear.

5. Conclusion

The analyses carried out lead to a discussion on the situation of young carers in Poland, as the categories to investigation made it possible to identify areas in which records on them should be expected. The first of the areas was the issue of children's rights and their protection in Polish law (the first research question posed). Most of the documents analysed declare the protection of children's rights: personal, social, cultural and economic. The child becomes a real subject of protective actions and postulates of legal and social transformations in the area of family and guardianship law. This includes new proposed principles of family life such as the principle of the child's subjectivity, the principle of the child's good, the principle of the child's upbringing in the family environment, the principle of family protection, the principle of family autonomy, the principle of subsidiarity of the state, the principle of non-discrimination between children and the family and the principle of mediated resolution of family conflicts and disputes (Michalak, 2018). The law setting principles for the protection of children's rights can be referred to as the CATS (Children as Actors for Transforming Society) triad: provision, protection and participation, where provision means the right of children to an adequate standard of living, health care, education, services and to play, protection is the right to be protected from abuse, exploitation and discrimination, and participation refers to participation in the life of the community (Levy, 2018). In the family and social situation of young caregivers, they are involved in family activities, tasks that far exceed their competence and maturity level, which means that there is both a transgression of the child's rights, and of sub-systemic boundaries within the family, as well as a kind of overinterpretation of this principle of child participation in family life (Chojnacka, 2022; Chojnacka & Iwański, 2022).

The second analytical area related to the issue of care, which is a key category in the study on young carers. In the documents analysed, it is understood

one-sidedly as an action carried out by adults towards minors. It is also the adult-parents who exercise authority over the child, which is increasingly referred to and postulated as parental responsibility (Michalak, 2018). Practical assistance, personal care and emotional support are the main scopes of action for young carers, indicating a reversal of the caring activities carried out by children (Warren, 2007). Polish law does not address such situations, nor does it define young carers as carrying out essential tasks in the family.

The third thematic area relates to difficulties experienced by the family. It should be emphasised that there is overlap with the situations identified earlier, in which under-18s become young carers (Leu & Becker, 2017). Considering the solutions in other countries (The Children and Families Act, 2014, art. 96; The 2014 Care Act, 2014, art. 63) it is in these pieces of legislation that one would expect any notice of the problem of young carers. As the analyses made here show, there are no provisions in the Polish law regulating the protection of the child and the family concerning young carers. Nor are there provisions that take into account their specific situation or needs, or that grant them any rights. This reveals a significant research and legal gap.

In conclusion, there is a necessity to address the issues of young carers in Poland, both at the practical level, i.e. working with children and families, and at the academic level, consisting in carrying out empirical research in this field. Only by revealing the extent to the problem in Poland will it be possible to initiate discussion and action towards legislative solutions.

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