

## VULNERABLE FAMILIES AND CHILDREN EXPOSED TO THE COBRA EFFECT: INSIGHTS FROM A POSITIVE AND NORMATIVE ANALYSIS<sup>1</sup>

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### 1. Introduction

In the colonial epoch of British control over India, to combat a snake infestation, the governor promised money for each dead snake delivered to the authorities. This policy worked for some time, then, when snakes became scarce, people began to breed snakes and then kill and deliver them. Once the fraud was discovered, the policy was revoked. The negative result was not only the waste of money, in fact, as the snakes were no longer useful, the population released the snakes, so that at the end of the policy, the snake infestation was greater than it was at the beginning (Siebert, 2002). From this legendary story, in which solutions make problems worse, the "*cobra effect*" gets its name. More generally, in the context of social policy evaluation, one can speak of unintended (of intended actions) when a policy triggers unexpected outcomes (Stame, 2000). The cobra effect is the worst case regarding the results of policy failure with unexpected negative effects: the policy not only does not affect the problem, it amplifies it. This is not the only known case of unintended consequences of a policy. It also occurred, for instance, with the 1902 Hanoi rat massacre under French colonial rule (Vann, 2003). There is no lack of cases involving children either. In 1956, the Canadian federal government paid 70 cents per day for each orphan and \$2.35 for each psychiatric patient (Dupuis, 2020). It is alleged that as many as 8,000 orphaned children in Quebec were falsely certified as mentally ill in order to receive a higher payment.

*"On March 17, 1955, Herve Bertrand was an ordinary 11-year-old boy attending classes at Mount Providence orphanage in Montreal. On March 18, he became an idiot [...] Sister Collete Francois come in around 10 or 11 o'clock and said: 'From today there will be no more school. Gather up your personal affairs and return to your dormitories. From Today onward, you are all crazy, mentally retarded'" (The Prescott Courier, 1993).*

In Italy, the so-called "*Angels and Demons*" Bibbiano investigation, into the Val d'Enza residential services scandal, showed an alleged illicit system of managing minors through false reports by social workers and psychologists, falsification of

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<sup>1</sup> Although the contribution is the joint responsibility of the authors, section 2 is attributed to Stoppiello, the section 3 is attributed to Della Queva, sections 4 and 5 are attributed to Carra section 6 is attributed to Airoidi, section 7 is attributed to Corso and section 8 is attributed to Verrecchia.

children's testimonies, manipulation and violence. It should be noted that policies for residential services provide average daily fees per child hosted up to 118 euros in Veneto and Emilia Romagna states CNCA - Coordinamento Nazionale Comunità di Accoglienza (Zancaner, 2019), much more expensive than supporting vulnerable families. Although we are not interested in the condemnations there have been, it is worth noting that every family unit from which the investigation had started was reconstituted by juvenile court rulings, which saw no reason why those children should not stay with mom and dad, a fact, the latter, sufficient to suggest the presence of the cobra effect in Italian cases as well.

In this framework, the focus of the study concerns a particular population: minors placed outside their families of origin and received in foster families and residential services. Our research started from the analysis of available official statistical sources with the observation of both the supply of residential services, through the availability of Istat's Continuous Census of Non-profit Institutions (Paragraphs 2 and 3), and the use of such establishments, thanks to the dossiers of the Ministry of Labour and Social Policy (Paragraphs 4 and 5). Real cases shared by Telefono Arcobaleno are useful for "hands-on" and better understanding of the phenomenon (Paragraphs 6 and 7). Data and real cases are supplemented by normative analysis (Paragraph 8). Final considerations close the paper.

## 2. Nonprofit Institution Continuous Census

The year 2015 marks for Istat the start of the new era of general censuses: population and economic units are not more surveyed every decade but continuously. The permanent census method is based on periodic (annual, biannual or triannual) sampling integrated with information from basic statistical registries. The Continuous Census of Non-Profit Institutions<sup>2</sup> (NPIs) will thus allow Istat to produce relevant annual data on the structural characteristics of the nonprofit sector. These data are to be completed by triannual sample focus surveys concentrating on selected dimensions and particular aspects of Italian non-profit institutions. In 2016 Istat realized the First Continuous Census of NPIs, based on the integration of the results of the thematic sample surveys and of the statistical register, with the following aims: i. update, and make consistent, information regarding the nonprofit sector in Italy along its economic and social dimensions; show its peculiarities and organizational characteristics through a series of thematic focuses, while guaranteeing the time

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<sup>2</sup> According to international definitions (SNA 1993, 2008), nonprofit institutions are "legal-economic units with or without legal personality, private in nature, which produce marketable or non-marketable goods and services and which, according to applicable laws or their own bylaws, do not have the power to distribute, even indirectly, profits or other gains other than remuneration of work performed to the persons who established them or to their members".

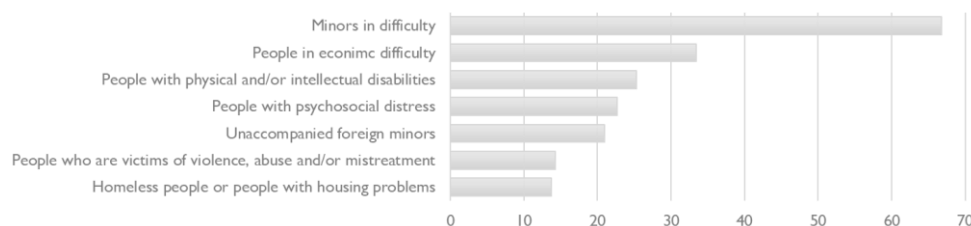
series information; ii. meet the national and international informational needs by providing data necessary for the realization of the Nonprofit Satellite Account; iii. build a system of statistics comparable at the international level on the basis of the criteria established by the *Handbook* (United Nations, 2003, 2018); iv. enlarge the availability of the informational assets about the sector in the administrative data archives; v. reduce statistical burden and costs. In 2018, Istat released the 2016 Statistical Register of NPIs updated to the current context, the First Continuous Census classified the nonprofit institutions according to the principal heuristic variables (already indicated in international references) such as the typology of economic activity (market / non-market), the scope with respect to the typology of beneficiaries (mutualistic / of public utility), and the primary source of financing (public / private). Information was provided on activities performed (primary and secondary); services provided and their beneficiaries or objectives; human resources engaged (paid and unpaid) and their principal characteristics (categories and professional profiles); economic and financial dimensions and budget components; modalities and tools of communication and fund-raising. The first continuous census of nonprofit institutions is based on a sample survey from the Statistical Register of NPIs. Sample estimates are calculated from the known totals of the reference population. No quantitative data available on beneficiaries.

### **3. Child-oriented non-profit institutions and disadvantage**

Census surveys on NPIs make it possible to detect information on the structure, human and economic resources, activities carried out, and peculiarities of the Italian nonprofit sector, as well as the categories of hardship toward which they deliver services and also the prevailing age group of users. By a specific question of questionnaire, it is possible to analyze the role of NPIs in caring for children through the provision of various services and also to observe the weight of these institutions in supporting social distress. In 2015, there are more than 60,000 NPIs that address children under the age of 18 (predominantly) and represent 18% of the entire sector. They are concentrated in five areas of activity: i. Sports with management of sports facilities, organisations of sports courses, organisations of sports events (47%); ii. Other recreation and social clubs: organisation of events, feasts, celebrations and other events, management of centres for leisures and socialisation (14%); iii. Culture and arts: organisation of theatre shows, musicals and movies (11%); iv. Social services: management of day care centres (including summer centres) and semi-residential facilities (10%); v. Primary and secondary school in particular education in maternal school (9%). These are activities that play a central role in caring for the development and growth of children and their well-being, through recreational and

socialization activities but also with attention to the world of culture and schooling. Almost one third of the NPIs dealing with minors (predominantly) target groups with specific hardship (18,130, equal to 29.9%). In 52.2% of cases, they address their services to people with physical and/or mental disabilities, in 33.7% to people in economic difficulties and in 25.1% to minors in difficulty. There are 1,099 vulnerability-oriented NPIs that run residential social welfare facilities (excluding those that provide health services) and mainly target minors under 18 years of age, while 6.1 percent of NPIs that deal with minors target - mostly - groups with specific hardships (Figure 1): minors in distress (66.8%), people in economic distress (33.4%), people with physical and/or intellectual disabilities, (25.4%) people with psychological/social difficulties (22.7%), unaccompanied foreign minors (21.0%), people who are victims of violence, abuse and/or mistreatment (14.3%) people who are homeless or have housing problems (13.8%).

**Figure 1** – *NPIs predominantly targeting children under 18 years of age, oriented to vulnerability and running residential social welfare facilities (excluding those providing health services) by types of vulnerability. 2015 (percentage values).*



*Notes: Minors in difficulty. This includes minors removed from the family nucleus and/or cared for other reasons (not recognised at birth, death or presumed abandonment of the parents).*

#### 4. The available data sources on young people outside their family of origin

The main data available on the phenomenon of the reception of children and young people "outside their family of origin" and, therefore, placed in foster care with families or in residential facilities for minors can be obtained from the dossiers of Ministero del lavoro e delle politiche sociali - ML (2018, 2020, 2021). It should be pointed out that for not all regions the data is up to date. The data are joined with those of unaccompanied foreign minors (msna), who present, by their very nature of being "alone on the territory". characteristics and starting conditions quite different from those of children and young people who are removed from their families of origin by virtue of protection measures ordered by the Juvenile Court. If, in the examination of foster care cases, the data are subject to presumably "limited" distortions, since, at the end of 2019, there were about 500 msna, the picture becomes

more complicated in the matter of admissions to residential facilities, since, again at the end of the same year indicated, these minors exceeded 3,000 units. The data, especially those relating to minors in residential services, have a series of 'anomalies' that, in fact, preclude the possibility of a robust analysis of the phenomenon. In fact, the first consideration concerns the presumably different average age of msna and the rest of the aggregate of children and adolescents aged between 0 and 17 hosted in residential facilities. Of the first subset, it is stated that the subjects are "*almost exclusively concentrated in the age range close to reaching majority*". This, in particular, has the almost immediate effect of lowering the average duration of care, especially if this is compared with the duration of foster care. The lack of diversified observation of msna and other minors hosted in residential services also leads to a distortion in the measurement of the different outcomes related to discharge from the facilities, this leads to an increase in the weight of the "*unknown destination*" modality, which can be translated in terms of escape from the facility, which instead is almost unknown in foster care cases. Concerning young people placed in residential services we observe: i. for some regions, the data provided also include minors with their own parent, whether a minor or an adult; ii. sometimes minors taken in with their mothers in sheltered homes are included. In order to have useful information in the study of the phenomenon, it is necessary to promote better data collection especially regarding the variables that influence it.

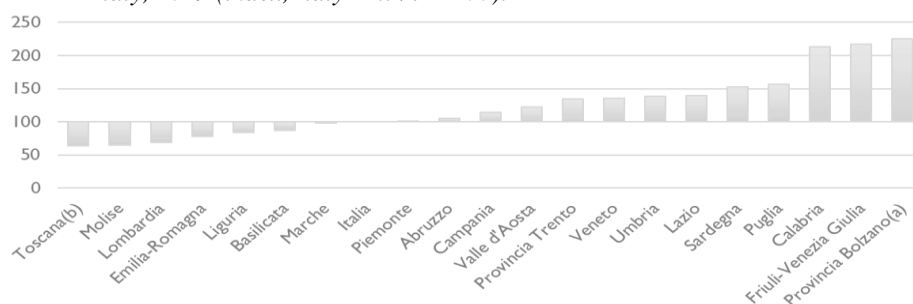
## 5. Positive analysis on young people outside their family of origin

In Italy, in 2019, the number of minors placed in foster families and residential services is approximately 28,000 (in 2010 there were approximately 26,000). The growth of the phenomenon over the last decade, +8%, is actually due to two diverging trends: i. a contraction in family foster care (-6%); ii. an increasing use of residential services (+25%), with the population of minors in 2019 exceeding 14,000. In the cross-country comparison, a different propensity for activating family fostering rather than residential placement emerges, quantifiable in the numerical ratio between the two foster care tools. In 2017, family foster care is the prevalent foster care instrument in the United Kingdom (2.6) and France (1.8). The situation is different in other European countries such as Italy and Spain (1.1) and Germany (1.0). In Italy, there is such a negative trend that since the last two years there has been a greater propensity for residential placement (1.28 in 2010 vs. 0.96 in 2019). This fact is also confirmed in trend terms, from the models applied to the available data with parameters estimated with least squares<sup>3</sup>: for children placed in families

<sup>3</sup> In general, the derivative with respect to the parameter  $a_s$  is:  $\partial Q/\partial a_s = -2/N \sum_i \sum_j (y_i - \sum_{h=0}^K a_h x_i^h) x_i^s$ ;  $n_{ij}$  ( $s=0,1,\dots,K$ ).

the angular coefficient is negative (-52), while for children in residential services it is positive (238). More than half (50.9%) of the children placed in residential services stay more than one year in residential establishments. 12% of minors dismissed from residential facilities in 2019 have an "unknown destination", i.e., they are on the run (vs. 3% in family foster care). While nationally only 24.3 percent return to their family of origin, in Tuscany, Molise and Lombardy, with indices below 70 (Figure 2) the situation is even more critical, as this share amounts to less than one-sixth. Only for earlier years (2016), data is available on the main reason for placement of children and young people aged 0-17 years (ML, 2018, Tab. 2, p. 9): unbelievably 'Family economic problems' appears among other items in both family fostering (1.1%) and residential services for children (2.3%).

**Figure 2** – Share of children in residential services who return to family of origin, by region, Italy, 2019 (index, Italy 24.3% = 100).



Source: ML (2021). Notes: (a) Partial data, minors cannot be separated out; (b) Minors present with their parent, whether the parent is a minor or an adult, are also counted.

## 6. Real case 1: From intra-family violence to «family». From family to the breakdown of family ties

Considering the initial life context, we observe a family abuse with minors. Mother rescues children from violence by flying to Italy, where she has difficulties in finding an occupation (due to language and low level of education). This leads the family to related social isolation, socio-economic and cultural unhealthy hardships as well as housing conditions and a lack of fulfilment of children's basic needs. In terms of reporting and protection interventions the school reports the case to Telefono Arcobaleno (T.A.): in the first intervention phase (systemic support in emergencies) housing conditions are made healthy and functional, legal aid and support for the parent's job placement were activated, as well as the territorial (school, church, community) involvement to support the family unit. The following services have also been implemented: home education, psycho-educational support

for minors and parenting support service (to "accompanying" parenting function, made vulnerable by violence and poverty conditions). The assessment of recoverability of parental resources is positive: the mother is able to identify the needs of her children but is currently unable to meet them. We can observe that we are faced with an evolutionary process that is crucial for building a relationship of trust in the territorial services that can lead to success in this family. In the second intervention phase (non-systemic support and evaluation) the assessment and intervention of the Child Neuropsychiatry (CN) and the Municipality Social Service lead to: i. Activation of home education service (not sufficient with respect to real needs); ii. Activation of the CN Service for the assessment (but not intake); iii. psychological interview with the parent (perceived as evaluative by the mother); iv. Limited management of socio-economic problem; v. involvement of the Juvenile Court. The outcome of this intervention is the assessment of parental inadequacy (the mother is not capable) and the placement of minors in two different residential facilities. Therefore, it was chosen to activate a residential service for minors instead of investing in home education and parenting support service: the outcomes are that not enough has been done to create the conditions for responsible parenting; the children's right to grow and be educated in their own family is not guaranteed (Figure 3). The intervention amplified fragilities and weakened family ties.

**Figure 3 – Outcomes: Costs.**

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- **Costly** maintenance of minors in the Community
  - **Lack** of recoverable parental resources
  - **Loss** of family ties
  - Children's right to grow and be educated in their own family and the right to continuity of affection are **not guaranteed**
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## **7. Real case 2: From the fragmented, conflicted and deprived family to the family protected by institutions**

Considering the initial life context, in this real case we observe a separated family with minors who live with their mother and don't see their father and paternal line relatives in the last two years. Children were born when both the parents were minors. The separation occurred when the children were still kids. In addition, we find: i. High parental conflict and a lack of support from paternal and maternal families of origin; ii. Lack of fulfilment of children's basic needs; iii. Unhealthy housing conditions of the minors; iv. Job insecurity and cultural, social, and economic hardship; vi. Stigmatisation and social isolation of the mother. Finally, a distrust of territorial services emerges. In terms of Protection interventions, the Ordinary Court intercepts the needs of the family unit in a civil proceeding, each of

the two parents ask for sole custody of the children. The mandate to the Child Protection Service of T.A. consists of the following support and evaluation interventions: i. Socio-environmental assessment; ii. Parenting support pathway; iii. Decision-making process on the child custody and placement regime; iv. Indication of any further intervention deemed necessary to support the parents or the minors themselves.

**Figure 4** – *Outcomes: Costs and benefits.*

Costs
<ul style="list-style-type: none"> <li>▪ Considerable <b>investment</b> of different territorial services</li> <li>▪ <b>Strenuous</b> (but possible) networking</li> </ul>
Benefits
<ul style="list-style-type: none"> <li>▪ Investment of <b>reduced economic resources</b> compared to those required by an intervention in residential facilities</li> <li>▪ <b>Development</b> and <b>maintenance</b> of affective relationships within one's own household and restored family ties</li> <li>▪ Children's right to grow and be brought up in their own family <b>guaranteed</b></li> <li>▪ <b>Created</b> «the conditions for positive and responsible parenting»</li> <li>▪ <b>Honoured</b> the need to «bear in mind the need for every child to grow up in a caring and supportive environment, actively counteracting the emergence of situations that lead to the separation of children from their families by <b>accompanying vulnerable parenting</b> and the consequent articulation between the sphere of protection of "minors" and that of support for parenting»</li> </ul>

T.A. proposes: i. Temporary fostering of the family unit to the Municipality's Social Service; ii. Placement with the mother; iii. Deployment of all useful territorial resources as there are clear signs of recoverability of parenting skills. Following the positive improvement of the initial prejudice and discomfort conditions T.A. informs the Judge that overcoming the condition of prejudice for minors depends on the intensity of public support and intervention that can be mobilized in favor of the family nucleus. The Court, therefore, orders the temporary custody of minors to the Municipality's Social Service and their placement in the maternal home. In addition, the judge jointly instructs T.A., the Municipality's Social Service and the Health Care Services to: i. activate a strong support project for the mother aimed at promoting the progressive improvement of her current working, income and housing conditions and activation of the home education service at the maternal home where the minors are placed; ii. extend the support path to parenthood, also in order to facilitate the maintenance of the emotional relationship, recently reactivated, with significant adults in the context of the life of minors; iii. activate a path of psychological support for minors; iv. monitor the evolution of the living conditions of minors. The outcome achieved is that the minors are now living with their family, the family ties are all restored, and the parents respond positively to the intervention program (Figure 4).

In this case it was chosen to activate an intense public and private support in favor of the family unit, in order to improve the living conditions of minors within their



family life context. It was therefore chosen to invest in home education and parenting support service rather than in the placement of minors in residential structures. The conditions for positive and responsible parenting and the guarantee of children's right to grow and be educated in their own family are safeguarded.

## 8. Normative analysis

From a normative point of view, there seems to be no gradualness in the funding, use and prescription of the available instruments. Family fostering and residential services should be the last resort, after having adopted all the other possible measures to support the nucleus. Are we therefore faced to the cobra effect? It can be observed that in contrast to what is observed from data, angular coefficients (see para. 5) and real case 1, there is not only the law<sup>4</sup> and judgments<sup>5</sup> there are also Ministry guidelines. In theory, the right of every child to live in his or her own family is guaranteed (Figure 5, 102). For the realization of this right in all regions (Figure 5, 020), the law establishes four cardinal principles: i. the vulnerable family must be supported with appropriate interventions to prevent the removal of children (Figure 5, 030); ii. when it is temporarily impossible for the child to live in his or her family of origin, the Italian legal system provides the instrument of family foster care (Figure 5, 110.1) as a brief parenthesis of life outside the family context of origin, without breaking the bond with the family of origin (Figure 5, 110); iii. where family foster care is not possible, placement of the child in a family-type community is allowed; iv. subject to the fact that there are no family-type facilities on the territory, placement in a public or private care institution is possible (Figure 5, 102).

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<sup>4</sup> Law No 184, May 4, 1983, as amended by Law No 149, March 28, 2001: i. The child has the right to grow up and be educated within his or her family; ii. The poverty of the parents or of the parent exercising parental responsibility may not be an obstacle to the exercise of the child's right to his or her own family. To this end, support and assistance shall be provided for the family.

<sup>5</sup> The Court of Appeal of Rome on June 3, 2009 decides (no. 2327) that: «Article 1, Law no. 184 of 1983, sanctions the child's right to grow up within the family of origin, giving priority to the child, protecting him/her and guaranteeing his/her effective fulfilment regardless of gender, language, religion, even in the presence of parental indigence, through the provision of help and support. In this sense, in fact, even in situations of extreme difficulty of the family of origin, the law guarantees the most balanced development of the child through the recovery of the family itself, with the activation of support measures by the social structures, with the aim of allowing the child to be raised, educated and cared within his or her family environment. In the system thus delineated, the institution of adoption, as preceded by the declaration of abandonment, constitutes an extreme remedy that can only be reached after a particularly rigorous assessment of the child's situation (In the light of the above, it does not appear that the child's right to be brought up and educated by his or her parents is compromised, given that the child is not deprived of the affection and closeness of his or her parents, or lacking in material and moral care, but has limited parental capacity, which can certainly be improved and positively developed through a strong support project).».

**Figure 5 – Highlights of the ministry's guidelines**

Care in residential services for minors (a)	Family fostering (b)	Children and families in vulnerable situations (c)
<p><b>102.</b> Among children's rights an important place is taken by the right of every child to grow up and be educated within his or her own family, according to art. 1 of Law 184/1983, as amended by Law 149/2001.</p>	<p><b>110.</b> Family fostering is generally a short- to medium-term intervention mainly aimed at families experiencing particular difficulties in the care and education of their children.</p>	<p><b>020.</b> The complexity and often fragmented nature of the intervention of the different actors involved in the work of accompanying children and families [...] requires clear national guidelines that can guarantee: fair treatment and equal implementation of rights to children and families living in different territorial contexts [...].</p>
<p><b>102.</b> Those responsible for the care and protection of the child ensure that efforts are made to have the child stay with or return to his or her parents or, where appropriate, to other family members.</p>	<p><b>110.</b> The different types of family fostering are placed on a continuum and still refer to the same purpose of reuniting the child with his or her family.</p>	<p><b>030.</b> This set of norms, together with [...] the Council of Europe's call for public policies to create the conditions to enable positive and responsible parenting, call for taking into account the need for every child to grow up in a caring and supportive environment, actively counteracting the emergence of situations that lead to the separation of children from the family by accompanying vulnerable parenting and the consequent articulation between the sphere of protection of 'minors' and that of parenting support.</p>
<p><b>102.</b> The care pathway ensures that parents, relatives and adults of reference, when not in conflict with the need for guardianship, are provided with all appropriate forms of maintenance and development of affective and relational ties with the child in hetero-familial care.</p>	<p><b>Recommendation 110.1.</b> Consider family fostering, in its different forms, a privileged tool to prevent the removal of a child from its family.</p>	
	<p><b>Recommendation 113.1.</b> Acknowledging the pain and fatigue of the parents and family nucleus of the child in foster care due to separation from their child and having to turn to and rely on third parties (voluntarily or judicially).</p>	

Source: (a) *See. ML*, 2012, pag. 8; (b) *ML*, 2013, pagg 11, 15; (c) *ML*, 2017, pagg. 9, 11, 12.

## 9. Final remarks

Critical issues emerge with regard to both sources and the availability data. Significant territorial differences are observed that also depend on the regional competence of intervention policies and, in many contexts, there are contrasts with ministerial guidelines that seem to suggest a failure of public policies. Thanks to the non-profit institution Telefono Arcobaleno, it was possible to learning more from real cases. In the first case, with an *ex-ante* assessment, all children and family rights

are disregarded. In the second case, with an *in itinere* assessment and thanks to the strong intervention of systemic support to the family unit, all the rights of the minors and the family are preserved. Deprivation and precarious economic conditions, in both cases were at the root of other family fragilities, however, in the second case, the temporary joint custody of the public and private social sector leads to an amplification of the potential of family support services.

From a normative point of view: law, judgments and ministerial guidelines do not seem to be respected. There seems to be no gradualness in the funding, use and prescription of the available instruments. Family fostering and residential services should be the last resort, allowed after having adopted all the other possible measures to support the nucleus, otherwise, the solutions can make the problems worse. This is because, due to the cobra effect, incentives that are not "*neutral*" or not gradual can backfire: good intentions and perverse outcomes.

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### SUMMARY

Vulnerability can manifest itself in society through multiple dimensions that are not always only economic. Poverty, marginality or socio-economic vulnerability if not adequately countered through careful policies can be the determinants of deviant systemic behaviour. The aim of the work concerns the study of a particular population, that of minors placed outside their families of origin and received in foster families and residential services. The aspects of interest concern: i. The analysis of existing official sources; ii. The analysis of data with methods capable of bringing out territorial gaps and marginalities; iii. The normative analysis, with reference to ministerial guidelines. Critical issues emerge with regard to sources, both because of the endemic nature of the phenomenon and because of the availability of data that is mostly administrative in nature. With regard to the phenomenon, however, important territorial gaps are observed that also depend on the regional competence of intervention policies and, in many contexts, there are contrasts with ministerial guidelines that seem to suggest a failure of public policies. Are we facing to the *cobra effect*?

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