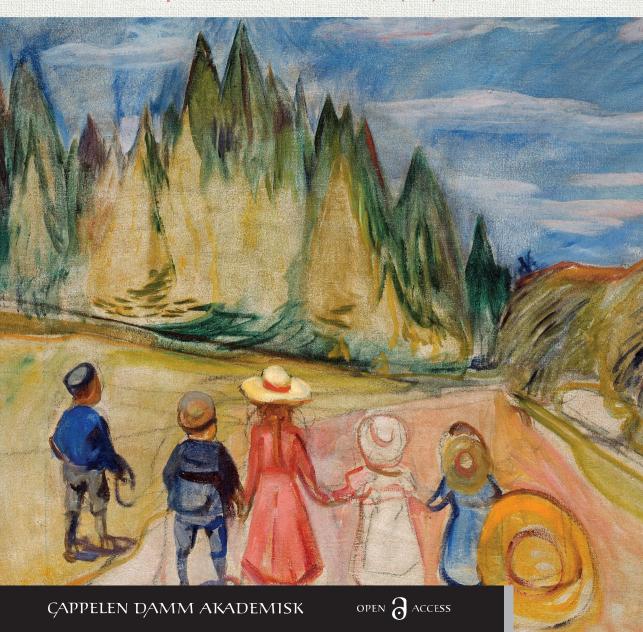# Child Welfare and the Significance of Family

Halvor Nordby, Grethe Netland and Astrid Halsa (Eds.)

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Preface

This book has its origins in the research project 'Decisions and Justifications in Child Protection Services', funded under the Research Council of Norway's programme *HELSEVEL*. The focus of the research project is child welfare services' decisions and justifications related to safeguarding the best interests of the child. The project started in 2018, and this book is the project's second in anthology form.

The purpose of the book is to clarify and shed light on how the significance of family influences professional child welfare work as a form of social work service. We do this in three ways. First, we are concerned with how families and children experience their meetings and communication with child welfare services. Second, we analyse how professional child welfare work with families is guided by rules, norms and ideologies. Third, we seek to understand how social structures and frameworks can contribute to explaining the interaction between child welfare workers and families. Together the chapters of the book form part of an overall understanding of the significance of family in child welfare work. We hope that the book can stimulate reflection among researchers, practitioners and students in child welfare and social work study programmes.

We would like to express our gratitude to the Research Council of Norway for funding the research project of which the book is part and the Inland Norway University of Applied Sciences for funding its publication. We would also like to thank the authors of the chapters in the book for their contributions and the stimulating discussions we have had in the workshops leading to the book. The authors come from different disciplines and the interdisciplinary approach to the book's theme has created a platform for many interesting discussions.

Thanks also to the anonymous reviewers who provided constructive comments on earlier versions of the chapters. Finally, we would like to extend a special thank you to the publishing editor Ann Kristin Gresaker

and the publisher Cappelen Damm Akademisk, who have shown great interest in the book project right from the start and provided very valuable input along the way.

Lillehammer, December 2023
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Introduction

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What is the significance of family in a child welfare (CW) context? In this book, we discuss this question from three different perspectives. One is the perspective of children and families who are in contact with CW services – what we call the 'recipient' perspective. Another is the perspective of CW workers – what we call the 'professional' perspective. A third perspective is what we call the 'system' perspective – how organisational frameworks, family values and social conditions influence professional CW work.

Although the context for many of the discussions in the book is Norwegian CW work, the topics are general, recognisable and relevant to similar discussions in other countries. There is broad consensus that family is important both as a social institution and as a place of intimacy and care. Families can be of various kinds, but they often consist of children and one or two parents – whether they are biological parents or not – who live together or separately.

As part of a social institution, the family's adult members have a responsibility to meet children's basic needs. When this responsibility becomes too much of a burden for the parents, they may need assistance from professional CW services. Much CW work is based on voluntary participation, where help comes in the form of guidance or practical assistance. But when there are serious problems in a child's care situation, such as abuse, and if the parents do not wish to cooperate voluntarily, the CW services may intervene against the will of the parents. There are also cases in which the child itself does not wish to receive help from CW services, sometimes in

accordance with parents' wishes, sometimes not. In all cases of conflict, the significance of family becomes particularly salient. The disagreement is not about family being important, but what weight family ties should be given in decisions about possible interventions and care arrangements, and how these ties should be acknowledged in CW work. The book's chapters illustrate how profound such disagreements can be.

Two main questions underlying the discussions in the book are what happens when CW services intervene in family life, in some cases by removing a child from its original family[1], and how this creates challenges for the child, the family and the CW services. Contributing to answering these questions requires awareness of the more general questions of what a family is, how parents and children have a right to decide how they wish to live their lives, and why families normally have great significance in people's lives. Understanding this is important for everyone who works with the welfare of children and their families, and for those who educate CW workers. This book is intended for CW workers, policy makers, researchers, and teachers and students in social work and CW study programmes.

Below we elaborate on the three above-mentioned perspectives – the recipient perspective, the professional perspective and the system perspective, but first we would like to emphasise that there is no sharp distinction between them. The perspectives overlap, the differences are not very strict and many of the chapters focus on more than one of them. We believe that the three perspectives nevertheless represent fruitful approaches to the book's theme in the sense that they complement each other. By using them to generate relevant knowledge, the book can help develop a comprehensive understanding of the significance of family in a CW context.

The book's authors have different professional backgrounds. Together, they bring in theory, practice and research experience from the social sciences, psychology, sociology, social anthropology, law and philosophy. This means that the book's theme is illuminated from different theoretical points of view and that it reflects how knowledge about CW work is based on contributions from many disciplines.

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1   We use 'original family', not 'biological family', in order to include families where one or both parent(s) are not the child's biological origin.

The recipient perspective

Within the recipient perspective, we want to contribute to knowledge of how children and their families experience encounters and cooperation with CW workers. The aim is to highlight the voices and narratives of those who experience CW work with children as a form of social service – how children and their families understand and are affected by professionals' communicative acts and interventions.

Understanding recipient perspectives is important in all practical social work. It is especially important in relational work where professionals' decisions and choices of actions must be based on insight through communication and social understanding. In CW work with families, insight into the family's specific context, practices and understanding of the child's care situation is essential. CW workers must try to ensure that they and the involved parties share an understanding of the relevant facts to a reasonable degree, and they must try to meet families in a way that creates trust and cooperation in finding good solutions for the child concerned. CW work with children and families is definitely an area where it is important to secure both informative communication (giving and receiving information) and relational communication (establishing and securing appropriate relations).

The insight CW workers gain in specific encounters with families is unique and contributes to the goal of gaining a good understanding of the care situation of each child. At the same time, more general knowledge about how different groups of recipients typically, or at least often, perceive communication with CW services can also be useful in the specific meetings.[2] It is first and foremost this type of background knowledge we are concerned with when we focus on the voices of children and families. If the knowledge is not used uncritically, but adapted with care to each context where the knowledge is relevant, it can be valuable for professionals.

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2   The importance of being able to adapt to each family and their context (individual adaptation) and being able to apply knowledge about groups has a clear parallel to the difference between the concepts of cultural sensitivity and cultural understanding. As these are commonly understood, the first is about being aware of how individuals relate to cultural frameworks to a greater or lesser extent. The second is concerned with general knowledge of different cultural frameworks.

This importance of contextual understanding is striking when compared with professional work with people where natural science knowledge is central. Consider, for instance, somatic health care. Health-related work of a medical nature is mainly based on general biomedical knowledge about disease, illness and bodily injuries. This type of knowledge does not, and should not, have a prominent place in ordinary CW work. Here it is necessary to think more comprehensively along a variety of individual, relational and social dimensions, and to make many assumptions and assessments that are not 'research-based' in a strict sense. Furthermore, all kinds of knowledge and preconceptions that CW workers bring when they meet families must be balanced against what may emerge as new and distinctive in each specific meeting. Nevertheless, knowledge of how various groups of families have typically experienced meetings with CW services can be valuable as a starting point in the meetings, if the knowledge is used tentatively and adjusted to each situation.

The authors of the empirically based chapters in the book use qualitative research methods to develop in-depth analyses of how children and parents have experienced their encounters with CW services. Attempting to elicit and describe such experiences – without significantly interpreting them in the light of theory – falls under what Gubrium and Holstein (1997) call a *naturalistic approach* in qualitative research. The basic idea of naturalism is to let what informants say – and typically the literal meaning of the words they use – be essential in analyses of the meaning of their narratives (Brekhus et al., 2005). In accordance with this, many of the chapters in the book seek to convey the genuine stories of families phenomenologically, in a wide sense of phenomenology. The presentations of the narratives aim to capture the informants' authentic experiences, and these experiences are then analysed according to various theoretical and conceptual frameworks.

Another way of describing this phenomenological aim is to say that when we seek to convey the voices of children and their families, we aim to uncover aspects of their *horizons of understanding*. As the concept *horizon of understanding* is usually understood in the academic literature, it does not only include thoughts, beliefs and perceptions to which we have conscious access. Our horizon of understanding is our entire mental life – everything that lies behind our actions and interpretations of others' actions, including mental perspectives that we do not have our

attention directed towards at a given moment (Gadamer, 2004; Alvesson & Skoldberg, 2017). Horizons of understanding also include values, attitudes and experiences that can contribute to explaining why we act and interpret other people the way we do. Several of the chapters in the book aim to present not only children's and families' specific thoughts and beliefs about their encounters with CW workers, but also to convey a wider understanding of their experiences and how these experiences have shaped their lives in various ways.

The recipient perspective is particularly salient in four chapters. In the chapters 'Narrative Identities in Children as Next of Kin. A Qualitative Interview Study' and 'How Parental Relationships Influence Young People's Identities and Meaning Constructions of Family and Family Life', children and young adults present their experiences as children of parents with substance use disorders or mental health problems. In the chapter 'Inclusion of Children and Youth in Foster Families: Aims, Challenges and Solutions', foster parents and youths who have been living in foster families were interviewed about their understanding of family. In the chapter 'Family Ruptures and Un-Belonging: Discomfort in the Norwegian Child Welfare and Migrant Minority Families', parents with minority backgrounds were interviewed about their experiences from meetings with CW services.

The recipient perspective is also important in chapters where new data is not presented, but where the importance of understanding the voices of parents and children is nevertheless highlighted. Common to the authors of these contributions is that they aim to show the significance of including knowledge and analyses of recipient perspectives in professional decisions and interventions. A variety of theoretical resources are used to elucidate how this is crucial.

The professional perspective

The importance of including families in decision-making processes falls under the more general point that the work of professionals does not start with a clean slate. Just as recipients of CW services understand decisions and interventions on the basis of their horizons of understanding, professionals act on the basis of their perspectives. In the book, the professional perspective is addressed in two ways.

First, we are concerned with norms and principles that govern professional practice. These are rules of legislation and normative principles

that are central in CW work, but can also include methodological proce-dures, procedures or internal rules of action, such as 'internal rules' in a CW institution for youths (for example, household rules). This part of the professional perspective is linked to formal frameworks. By this we mean conceptual understandings that are formalised in writing, often as norms for practice. In CW work, the most fundamental formal principle is 'the best interest of the child'. CW workers should always attempt to find solu-tions that are best for the children they work with.

Second, we are concerned with informal and not conceptualised parts of professional practice: unarticulated preconceptions, ways of thinking and ideologies that characterise CW services' work with families as essential aspects of professional practice. These are more underlying and implicit perspectives, often linked to basic and unarticulated normative assump-tions, grounded in cultural practices, professional paradigms or interpreta-tions of principles. In some cases, the use of normative assumptions can result in what Engebretsen and Heggen (2012) call 'hidden power', that is, the use of power that may be informal, unconscious and not always well-founded. Understanding hidden power is a particularly important point in CW work with children and families, because it can potentially be a highly powerful professional practice.

One way of highlighting the tension between the formal and informal aspects of the justificatory basis for practice is to link the tension to the dis-tinction between requirements and limitations on the one hand and room of action on the other. CW workers' room of action is limited by formal requirements such as legislation and regulations, but also by constraints such as finances, human resources and more individual issues like lack of experience or limited personal professional competence. The room of action represents the professional autonomy of each individual to make his or her own choices (Stewart, 1982). This does not mean that the room of action is a simple matter of preference for CW workers, but rather that they have a professional duty to make professionally justified choices within the possibilities that exist.

This is a particularly important point in CW services' work with fami-lies, because the room of action is often significant and there can be a lot at stake. In order to create and maintain good working relationships, it is necessary to communicate well and to think actively, sometimes quite creatively – 'outside the box' – about what might be good choices. Normally, it is possible to choose between many alternatives of action, including

communicative acts, within the formal requirements of the work. Even minor choices that might seem insignificant can be of great importance in efforts to improve the child's care situation.

Within the professional perspective, our approach to what horizons of understanding include is wide. As in the recipient perspective, we are concerned here with capturing experiences phenomenologically. But we are even more interested in ways of thinking that characterise the work implicitly. This is especially important in our concern with values and attitudes that professionals express – as parts of the horizon of understanding that govern their actions, but which do not appear as literally in language as beliefs and thoughts normally do. Getting a handle on such aspects of horizons of understanding requires uncovering what Braun and Clarke (2006) refer to in their influential discussion of thematic analysis as underlying 'latent' and not just 'semantic' meaning. The depth of explanation is greater than that provided by phenomenological approaches, and we use what Alvesson and Skoldberg (2017) call 'alethic' interpretive perspectives in analyses of data and discussion of results, as this is common practice in research based on qualitative methods.

The professional perspective appears in several of the chapters. The chapter 'Quality and Legitimacy in ECEC Mapping: How Can Mapping Contribute to the Protection of Children and Their Families?' builds on Early Childhood Education and Care (ECEC) workers' experiences in cooperating with families and welfare services. In 'Family Group Conferences and Discourse Ethics in Child Welfare Work', family group conferences as a professional working model for including families in decision-making processes are critically discussed. Several of the chapters that are concerned with the recipient perspective are, as mentioned above, also concerned with the professional perspective. An important aim of these chapters is to compare the understandings of professionals and families, and to highlight contrasting views and experiences.

In addition to the chapters that present professional understandings, several chapters are concerned with the professional perspective in a more theoretical sense. The chapter 'Family Ethics and Child Welfare' contains a discussion of how much parents should be allowed to decide over their own children. This question is highly relevant for how professionals should exercise their right and duty to intervene in family life, and how the value of family as a 'unit' can conflict with the professional mandate to do what is best for the child. Many chapters in the book contain discussions on how

influential conceptual frameworks about families and CW services have action-guiding implications for CW workers.

The system perspective

While the recipient and professional perspectives are viewpoints at opposite ends of the collaborative relationship between CW services and families, the system perspective concerns this relationship in a larger context. Here, background knowledge of professional and recipient perspectives is relevant, but this knowledge is more of a starting point for analyses within more comprehensive frameworks.

Within the system perspective, we seek to understand CW work with families both from structural and ideological perspectives, and on different levels of explanation. Some contributions focus on specific contexts of interaction between CW services and families. This can be the social arenas in which CW services' cooperation with families is initiated, such as ECEC institutions, but may also be the organisational frameworks for interaction, such as family group conferences. Other contributions focus more on overarching ideologies, structures and social conditions that influence CW work with families. Some chapters focus explicitly on normative value principles that are central in CW work, such as the biological principle and the principle of protection, in addition to the overarching 'best interest of the child' principle. Other chapters are more concerned with political, legal, economic and ideological structures.

In three of the book's chapters, such discussions are particularly evident. In 'Should Foster Care Replace the Family? Child Welfare and the Value of Family Privacy', the boundary between the family and the state's responsibility for children is thematised. The chapter 'As Beings, Children Need to Be at Home' is a discussion on the importance of having a home. In 'Children, Family, and State: Changing Relationships and Responsibilities', light is shed on how perceptions of the relationship between children, family and state change over time, and how this relationship is enshrined in legislation.

Underlying these discussions is the fact that international conventions on the status and rights of children and families express norms and values that states are obliged to follow. In many of the chapters these conventions are addressed, especially in light of the fact that the conventions provide the premises for how the right to family life is to be understood. Article 3 (1)

of the UN Convention on the Rights of the Child (United Nations, 1989) states that 'In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration'. As the principle of the best interest of the child is understood in the Convention, it is linked to the right to grow up in a family. Article 7 (1) states that 'The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.' Article 9 (1) expresses the fundamental importance of the family in a child's life:

> States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. (United Nations, 1989)

The most fundamental conflicts between families and CW services typically occur when the original family relation is challenged and when families disagree that separation is necessary to secure the best interests of the child. The child's original family members may think that family ties are so important that it is in the child's best interests to live at home despite major problems. The CW services, on the other hand, may believe that it is better for the child that the CW services take over the care.

This does not mean that CW services do not seek to acknowledge original family ties in cases of placement. Quite the contrary, the services will normally seek to acknowledge family ties as far as the care situation permits, for instance by looking for a possible placement in the extended family or the family's network when it is realistically possible. Sometimes, however, a foster home with an entirely new family is considered to be the best solution. In such cases, CW workers will normally attempt to maintain the bonds with original family, in line with legal regulations which emphasise the biological principle, usually by arranging regular meetings with the original parents. But if there are very special reasons for not doing so, it may be necessary to minimise contact with original parents, or even cut the bonds completely.

A child who is placed in a foster home may sometimes think of the foster family as their own family. For children who have a very close relationship

with their foster parents and little or no contact with original parents, it might be natural to say, 'This is my family now'. This illustrates how the ordinary meaning of the word 'family' does not imply that original parents necessarily represent family. But children can also say things like 'I miss my real family' if they are not happy in foster care. Children living in foster care, even though they are living in a foster family, may not necessarily regard it as their own family.

With regard to institutional placement, the concept of family is less relevant as a term for relationships between the child and others in the institution. Some children who have lived in an institution for a long time may refer to the place as 'my home', as in 'This is my home now'. But it would seem strange to talk about other residents or staff as 'my' family. So there is an intuitive difference between foster parents and institutions, even though neither of the arrangements represent original family. The difference illustrates how the concept of family is more complex than one might think. The term 'family' can refer to different family constellations. It is not easy to define the term in a way that includes all the nuances of common usage.

In a traditional sense, conceptual analysis is an attempt to clarify the meaning of words in the light of the different ways of using them, in more or less common linguistic practices (Wittgenstein, 1953; Harman, 1999). As just shown, intuitions about how it is possible to use the term 'family' can therefore help to clarify its meaning, the content of the concept 'family' in our shared language. An important aim of the book is to contribute to the debate on how the concept of family should be understood. Analyses of the meaning of family are especially important at the system level, as such analyses are important for understanding the frameworks of the meaning of family in CW workers' cooperation with families.

The chapter 'Norwegian Child Welfare Cases in the European Court of Human Rights – an Ethical Perspective on the Judgments' clearly shows that the concept of family can be understood in different ways and that there are disagreements about the importance of different forms of families. This issue also surfaces in other chapters concerning family rights and cooperation between CW workers and families. Common to the discussions in these chapters are their efforts to show that achieving a good understanding of the significance of family in CW work requires more than capturing the horizons of understanding of professionals or the families they work with. It is also necessary to describe, interpret and analyse

different perspectives on family. These may be political, cultural and religious frameworks, or frameworks based on experience, research or theory.

This does not mean that horizons of understanding are unimportant within the system perspective. But the importance is more directly related to our role as researchers. In the final instance, all the chapters in the book – also those that focus primarily on recipient perspectives and professional perspectives – are developed from our perspectives on the significance of family in CW work. When we as researchers focus on this, our descriptions, interpretations and analyses – and the conclusions we draw – are coloured by our beliefs, interests and preferences. What is often called 'double hermeneutics' is especially salient in the research presented in this book. Understanding the significance of family in CW work is to a large extent a matter of interpreting various expressions of meaning: texts, documents or the narratives of informants. But these interpretations are made by us as researchers on the basis of our horizons of understanding.

The American philosopher Thomas Nagel is known for his objections to the idea that it is possible to describe the world from an objective point of view. No one can step out of their own horizon of understanding; it is not like a filter one can remove to understand an objective world as it is, independent of our own point of view. An idealistic research perspective completely independent of beliefs, values and attitudes can be called, according to Nagel (1986), 'a view from nowhere'. Nagel puts it this way:

> The fundamental idea behind both the validity and the limits of objectivity is that we are small creatures in a big world of which we have only very partial understanding, and that how things seem to us depends both on the world and our constitution. (1986, p. 5)

This does not mean that it is impossible to carry out reliable and valuable scientific activity, but that it is crucial to be aware of how horizons of understanding do and should characterise research. This is a particularly important point in research on CW work with families, because the topics are heavily value-laden and linked to ethical beliefs. It can be challenging to relate to these topics without making assumptions about what constitutes good practice. Such assumptions can stand in the way of designing research in such a way that it can challenge practices that need to be challenged, and they may imply that one does not interpret phenomena and data from valuable approaches that do not fit with strong and limiting preconceptions.

It is therefore important to remember that research on CW work is, to a large extent, an interpretive practice. Since it is not possible to step outside of one's own horizon of understanding, the goal of research cannot be to gain an objective understanding. In line with modern hermeneutics, the aim is rather to be aware that one's own preconceptions characterise research and to critically evaluate how they should and should not do so (Alvesson & Skoldberg, 2017). Ultimately, we see a parallel to an important goal in professional CW work with families. Here, too, the professional practitioners' own horizons influence how they act and understand families, whether they want them to or not. The crucial thing is therefore to understand how their horizons should influence their work. Hopefully, this book can contribute to critical reflection on this.

Overview of the chapters

As already indicated, the book's chapters cannot be precisely placed within one of the three perspectives: the recipient, professional or system perspective. Several of the chapters contain issues and discussions where these perspectives merge together. When we present the book's chapters in the following, we hope it will be possible for the reader to see how each chapter, and the chapters collectively, contributes with knowledge about child welfare and the importance of family.

In Chapter 1, Halvor Fauske, Camilla Bennin and Bjørn Arne Buer discuss how the right to family life is to be understood in the light of new and diverse family models, and extended expectations that parents provide proper childcare. The quality of the relationship between the child and its parents has increasingly become more important in the assessment of whether parents are fulfilling their duty to protect and provide care. Due to this development, the authors discuss what challenges CW services are faced with when assessing what is best for a child in the tension between the parents' right and duty to care for their children and the state's requirements. Fauske et al. conclude that CW work has become more complex since the CW services to a larger degree are expected to secure both proper care for children that are under the protection of the service and the continuation of the relations between these children and their original family and network.

Astrid Halsa, in Chapter 2, explores how youth and young adults who have grown up with parents with serious substance abuse or mental health

problems have managed their situation and what relational practices have emerged in their families. The chapter is based on six in-depth interviews with youth and young adults. The chapter's theoretical point of departure is the sociological approach to the study of family practices and the concepts of children and children's agency as these concepts are understood in recent childhood research. The stories told by the young people show, on the one hand, the significance of childhood experiences for the development of identity and self-understanding, and how family relations create dependence and duties that are hard to escape. On the other hand, the results show that family is not a fixed entity, but something negotiable, and that parenthood in many families is associated with a biological mother and a non-biological, reliable father connected to the child through the mother's emotional relationship. A central point is that the youngest children told stories about how to handle their situation here and now, while for the older ones, their agency had to do with their understanding of their upbringing and how to deal with it.

In Chapter 3, Anne Sigfrid Grønseth explores the complex encounters between migrant minority families in Norway and Norwegian CW services, which may produce a fear in families that the services will 'steal our children'. Based on in-depth interviews with both groups, Grønseth paints a picture of a strong sense of insecurity and discomfort on both sides. Taking a critical phenomenological approach, such affects and emotions are seen to play into actions and decisions based on guiding principles for childcare workers, as well as the families' views and values. While acknowledging that differences in cultural practices and values may create troublesome meetings, Grønseth seeks to understand this further by suggesting that concern for the affects and emotions on both sides might improve migrant minority families' experiences of family and belonging, as well as the integrity of the CW services.

Mari Rysst, in Chapter 4, discusses the aims and challenges of including children and young people in foster homes. Rysst explores the relationship between seeing kinship as a biological fact and/or a social construction, and asks how this relationship influences the children's and foster parents' understanding of 'family' and their experiences of inclusion. On the basis of interviews with foster parents and teens who are or have been living in foster homes under the protection of CW services, she addresses questions about how the child's best interests relate to foster care and whether the saying 'blood is thicker than water' is a challenge to integration in

foster homes. Rysst suggests that the value of staying in stable foster homes, if that is what the child prefers, should not be underestimated. She warns against the cultural dominance of the biological principle and advocates instead for more emphasis on attachment quality and a culture of social inclusion and well-being as helpful for integration in foster families.

The topic of Chapter 5, written by Bjørg Midtskogen, is collaboration between families, Early Childhood Education and Care (ECEC) institutions and CW services. Based on participatory observation and interviews with parents, children and ECEC workers in two Norwegian ECEC institutions, Midtskogen explains how the mapping of children is carried out, and explores whether and how mapping may influence a family's way into CW services and/or other services that can provide needed support and help to ease difficulties in the family. She suggests that mapping of good quality, where the requirements of deliberative theory – such as involvement of the affected parties, argumentation, discussion and transparency – are fulfilled, may serve as a bridge between families and services that can provide support. On the other hand, mapping of poor quality might lead to an unjustified way into CW services, which may contribute to creating and enlarging care issues.

In Chapter 6, Kerstin Söderström sheds light on how childhood and family experiences may affect identity and self-understanding. Based on in-depth interviews with 32 children with parents who have substance use disorders or mental health problems and CW concerns, Söderström contributes with insights on how such circumstances play a role in forming the children's narrative identities: the stories they tell about themselves. She finds that the stories told by the youngest informants reveal that the children have little distance to what they have experienced and that meaning making of their experiences is in progress. The narratives of the older informants, Söderström suggests, indicate that increasing awareness of how cultural norms deviate from the inner life of their families contributes to meaning making and self-understanding.

Halvor Nordby, in Chapter 7, discusses whether ideas from discourse ethics are suited to supporting and framing the working model of 'family group conferences' (FGC), conducted by CW services in which they take the role of facilitator in meetings between family members and their networks. The aim of FGC is to enable the 'extended family' to find solutions to a difficult child care situation. Using a discourse ethical approach to FGC, participants in the meetings should focus on the 'case itself' and

the pros and cons for alternative solutions – not on the roles and powers each of them has. Nordby argues that discourse ethics is incompatible with FGC if the CW services use strong normative assumptions to define what counts as a problem, adequate information or a justified argument. He suggests, however, that ideas from discourse ethics are suitable to a certain degree as an ideal for the communication that takes place in the meetings. Discourse ethical ideals might help to mitigate conflicts and improve dialogue towards agreement.

The topic of Chapter 8, written by Cathrine Grimsgaard, is the significance of 'home', both in general and for children who are under the care of CW services in particular. She approaches the theme by taking a phenomenological point of departure, where 'home' is not confined to a physical place but extends to the sense of rootedness and familiarity. Grounded in this understanding of 'home', Grimsgaard explores how children establish important emotional connections with their dwelling. Based on the insights of Heidegger and Bachelard, she contends that humans have a deep need for a sense of being-at-home. From that point of view, she discusses the unfortunate consequences frequent moves might have for children who are in public care. Grimsgaard suggests that the need for children to emotionally connect with a 'home' places ethical demands on CW services. Instead of referring to 'home' only in terms of physical conditions and safety standards, the services should, in their reflections, give space to the deep emotional significance of 'home'.

Grethe Netland, in Chapter 9, sheds light on one of the relatively frequent Norwegian child protection cases that have been dealt with in the European Court of Human Rights in recent years. In the Strand Lobben case, the Court found by a majority vote that Norway had violated Ms Strand Lobben's human right to a family life (see Article 8 of the European Convention on Human Rights). An important lesson to be learned from the judgment is that Norwegian CW services must adjust their guidelines and practices to meet the goal of reunification – the goal that a child in public care is (almost always) to be reunified with its original parents. Netland focuses on the moral basis of the judges' emphasis on this goal. She does so by analysing the family values and normative ethical thinking that can be traced in the judges' reasoning behind the decision and the justification of that goal. She concludes by suggesting that a value-based duty ethical principle of reunification can lead to a risk that other considerations of what is best for a child in a particular case are set aside.

In Chapter 10, Eirik Christopher Gundersen starts by arguing that a family, understood as a small, private childcaring institution protected from intervention from outside, may hinder equal opportunity and the rights of the child. Due to these possible unfortunate consequences for the child, Gundersen explores whether organising families as foster homes, where the family receives the same level of support, supervision and monitoring as a traditional foster home does, is less morally objectionable than raising children in families. He discusses three strategies for rejecting that idea: a child-centred approach, a dual-interest approach (taking into account both the child's and the parents' interests) and an approach based on the philosopher John Rawls' idea of reasonable pluralism. A central point in this concept is that incompatible but reasonable values and beliefs are to be tolerated. Gundersen argues that only the third strategy provides good reasons to reject the foster home model he explores. He concludes by briefly outlining some implications for the CW system and professional practice.

In Chapter 11, Halvor Nordby discusses whether and how contributions from philosophical family ethics can contribute to CW work. Nordby's point of departure is an account of Brighouse and Swift's well-known defence of the family, consisting of arguments related to parenthood and paternalism. He argues that their ideas about paternalism and the interests of children seem incompatible with important principles of CW work, e.g. the principle of least intervention and the idea of the child as a competent agent. Nordby argues that Brighouse and Swift's suggestions are too abstract and insufficiently informed by contextual differences and real-world practical work with children and their families. His general point is that when normative ethical theories do not match a heterogenous reality that falls under the theories, the validity of the theories is weakened: the norms and principles of such theories pay too little attention to the need for a contextual evaluation of those norms and principles.

Author biographies

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References

Alvesson, M., & Skoldberg, K. (2017). *Reflexive methodology: New vistas in qualitative research*. SAGE Publications.

Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology*, *3*(2), 77–101. https://doi.org/10.1191/1478088706qp063oa

Brekhus, W., Galliher, J., & Gubrium, J. (2005). The need for thin description. *Qualitative Inquiry*, *11*(6), 861–879. https://doi.org/10.1177/1077800405280663

Engebretsen, E., & Heggen, K. (Eds.). (2012). *Makt på nye måter* [Power in new ways]. Universitetsforlaget.

European Court of Human Rights. (1950). *European Convention on Human Rights*.

Gadamer, H.-G. (2004). *Truth and method*. Continuum.

Gubrium, J., & Holstein, J. (1997). *The new language of qualitative method*. Oxford University Press.

Harman, G. (1999). *Reasoning, meaning and mind*. Oxford University Press.

Nagel, T. (1986). *The view from nowhere*. Oxford University Press.

United Nations. (1989). *Convention on the Rights of the Child*.

Stewart, R. (1982). *Choices for the manager: A guide to managerial work and behaviour*. McGraw Hill Book Company.

Wittgenstein, L. (1953). *Philosophical investigations*. Wiley-Blackwell.

CHAPTER 1

Children, Family, and State: Changing Relationships and Responsibilities

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Abstract: The chapter examines the changing relationships between children, families and the state, and their impact on the Norwegian child welfare services authority. It discusses the evolution of concepts of family and parental rights, providing a historical backdrop of state-family interactions with a focus on children. The importance of the parent-child relationship's quality and caregiver duties are emphasized, alongside human rights considerations, referencing European Court of Human Rights cases and the Norwegian Child Welfare Act. The chapter underscores the necessity for child welfare services to evaluate the family network, parental competence, relationship quality and child development critically.

Keywords: child welfare, child welfare services, family, attachment

Introduction

We will elucidate different conceptions of what a family is, and how the right to family life for children and parents is interpreted, based on fundamental beliefs about the relationship between children, family, and state. We take a closer look at the interaction between the state and the family, with the child as the focal point, how this has changed over time, and how this is now enshrined in legislation. A main feature of this development is that the state increasingly recognises a diversity of family forms as a framework for children's upbringing, at the same time as the specifications for caregivers' duties towards children have been expanded and concretised. Increasingly, the quality of the relationship between children and parents is given importance when assessing how parents safeguard their children's need for protection and care. At the same time, in this chapter, we wish to see this development in the context of the Child Welfare Services' special responsibility for vulnerable children and the family's fundamental right to family life. The question that is therefore also discussed here is challenges the Child Welfare Services now face when the best interests of the child are to be assessed and safeguarded, considering the tension between the parent's right and duty to give children an upbringing that satisfies the state's requirements for parenthood, and what is in the best interests of the child.

The Norwegian Child Welfare Services – family-oriented and child-centred

The Norwegian Child Welfare Services is a family-oriented and child-centred welfare service (Skivenes, 2021, p. 140). The Child Welfare Service's mandate is to provide vulnerable children with necessary assistance (Child Welfare Act 2021, section 1-1) by cooperating with the child and parents, and involving family and networks when care fails (2021, § 1-9). The goal is to help children have a safe and good childhood. In 2014, the 200th anniversary of the Norwegian Constitution, a new clause on children's rights was adopted. This section states that the state shall ensure that children have a secure upbringing, 'preferably in their own family' (Constitution, 1814, section 104, third paragraph). The Child Welfare Act that came into force on 1 January 2023 has a similar wording on the right to care and protection, and the right to family life (2021, section 1-5). Section 102 of the

Constitution otherwise gives everyone in Norway a fundamental right to respect for their family life, and the state has imposed a special responsibility to protect personal integrity.

These sections establish a practice that has far-reaching historical roots. For most children, the family has been the framework for life until adulthood. Over the years, the state has imposed tasks and duties on parents in different ways and by different means. In line with societal development, parents have been assigned responsibilities for children's upbringing and education, which have also regulated relationships between parents and between parents and children. Accomplishing these tasks occurs in cooperation between the state and the family, through various forms of facilitation and support. Most often, families have a high degree of autonomy, but when parents no longer fulfil their duties towards the child, the state intervenes more directly (Kamerman, 2010; McGowan, 2010; Wyness, 2014). A turning point in the support process occurs when Child Welfare Services concludes that the problems are too great to be solved within the family. When things take such a turn, the focus shifts from assessments of the child's and the family's need for help and support in the home, to assessments of the degree to which the family is a risk to the child. This raises several questions about the child's relationship to his or her own family. Firstly, it is a question of whether staying in the family is in the child's best interests in relation to other alternatives. Secondly, it is a question of what contact the child should have with the parents if there is a care order. Formally, this is a question of how the child's rights should be weighed against parental rights. These rights may pull in the same direction, but not infrequently they may conflict (Berrick, 2018; Eide, 2020). These issues have come to the fore in recent years, because Norway has repeatedly been convicted in the European Court of Human Rights for violations of the right to family life, in Article 8 of the European Convention on Human Rights. Specifically, these are most often cases relating to the basis for assessments of care orders, visitation rights, return to family, and adoption (Søvig & Vindenes, 2020).

One of the most prominent judgments is Strand Lobben et al. v. Norway 2019, where the case was considered by the European Court of Human Rights in the Grand Chamber (for a more detailed analysis of the case, see the chapter 'Norwegian Child Welfare Cases in the European Court of Human Rights – an Ethical Perspective on the Judgements'). The case involves the deprivation of parental responsibility and the adoption of a

boy born in 2008, and the question of whether this was a violation of the right to respect for family life under Article 8 of the European Convention on Human Rights. The verdict of 13 judges found a violation of Article 8, while four judges voted against this. The majority was particularly critical of the fact that so little access was granted that this made a reversal impossible, and they also found various procedural errors in the case. The dissenting judges were from Denmark, Finland, Norway, and Slovakia. This partly Nordic faction refers to how the European Court of Human Rights struggles to resolve the trade-off between the rights of the family, which are particularly emphasised in the European Court of Human Rights, and the individual rights of the child, which we find in the Convention on the Rights of the Child. The four-judge minority argued that when the majority relies on procedural errors, this position conceals the fact that it was more concerned that Norway focused on the child's interests and not on the child being reunited with his biological family. In the minority's opinion, this reveals the tension that can be found in the European Human Rights Court (Helgesen, 2019).

The cases from Norway that have come up in the European Court of Human Rights are based on decisions made by the Child Welfare and Health Board (formerly the County Welfare Board), which is an independent administrative body making decisions independently of the municipal Child Welfare Services. Although the decision-making process is organised to safeguard the legal protection of the child and the parents, questions are nevertheless raised about violations of the human rights of the child and the parents. As Bendiksen and Haugli point out, it is thought provoking that a country like Norway, regarded as having a high degree of legal certainty, is subject to so many cases in the European Court of Human Rights (Bendiksen & Haugli, 2021, p. 202). In connection with the implementation of the new Child Welfare Act, a committee was therefore appointed to review how Child Welfare Services can better ensure legal protection at all stages of the decision-making process. In the Official Norwegian Report (2023: 7), the Child Welfare Service Commission presents 118 proposals to strengthen children's and parents' legal protection in Child Welfare Services.

There is room for discretion within the legal and professional framework on which the Child Welfare Services make their assessments and decisions. The boundaries between good and poor care and when one's own family is inferior to other alternatives will always be subject to discussion.

The assessment of the child's best interests has legal, professional, and value-related aspects. The best interest of the child is a principle rooted in a fundamental understanding and perception of what a family is and the importance of the family to the child.

What is a family?

The importance of the family for children is usually indisputable. It is taken for granted that children should grow up with their parents and that it is the family's responsibility to provide for, protect, and raise the children. As sociologist Göran Therborn argues in his book *Between Sex and Power* (2004), the family is the oldest and most widespread social institution there is. Although there are wide variations in family patterns, the family is the basic unit of all societies (Bjorklund et al., 2020). Regardless of whether conditions differ materially, financially, and culturally, the family is assigned similar tasks in providing for the upbringing of children. One definition broad enough to embrace an understanding of the family as a universal social institution is David Archard's definition of family as '… a multigenerational group, normally stably cohabiting, whose adults take primary custodial responsibility for the dependent children' (Archard, 2010, pp. 9–10). This definition is inspired by Margaret Mead, who argued that the concept of family could not be linked only to biological family, if it were to make sense to claim that family exists in all societies (Archard, 2010, p. 7). Admittedly, it is precisely the rearing of children that Mead believes is the only function that is universal (Mead, 1932, p. 27). Nor does a sociological concept of the family as an institution cover how family life is practised. The family is no longer a social institution with clearly defined roles and functions. Instead, the family has become a social community with individual responsibility and solidarity (Schneider & Kreyenfeld, 2021, p. 3). Relations between the state and the family have also changed significantly during the latter half of the 20th century. In Norway and many other countries, there has been greater acceptance of a broader diversity of family forms, both formally and in practice and different ways of living together as a family have become more equal legally. At the same time, the distinction between public and private has changed. Relationships between family members have increasingly been framed by rights and responsibilities, and the intimate sphere of the family has become a public concern in

terms of sexuality, gender identity, and forms of cohabitation (Plummer, 2003; Roseneil et al., 2020).

The right to family life – a human right

When the Universal Declaration of Human Rights was adopted in the aftermath of World War II in 1948, it stated that the family '… is the natural and fundamental group unit of society and is entitled to protection by society and the State' (United Nations General Assembly (1948), Article 16(3)). Thus, Article 1 states that all adults have the right to marry and start a family, and that they have equal rights at the consummation of marriage, during marriage, and at the dissolution of marriage. Article 8 of the European Convention on Human Rights provides for an individual right to privacy and family life, as well as the right to marry in accordance with national law. Experiences from the two world wars contributed to an assessment of the biological family, and of the significance for children to grow up in their own families. Farida Banda and John Eekelaar note that the understanding of what a family is has changed significantly since 1948, when the Universal Declaration of Human Rights was adopted (Banda & Eekelaar, 2017). Therefore, there will not necessarily be a consensus on what a family is in terms of assessing the child's right to family life. Since the question of the state's rights in relation to families and violations of family members' rights have become central issues in several child welfare cases, it is important to explore the meaning attached to concepts of family and family life.

The preparatory work for the Norwegian Child Welfare Act states that 'legal definitions of the concepts "home", "parent" and "family" are avoided … as the meaning of these varies and evolves as time passes' (Official Norwegian Report, 2016: 16, p. 13). The European Court of Human Rights also adopts a similar perspective on family life and refers to practice. In the Guide on Article 8 of the European Convention on Human Rights from 2022, European Court of Human Rights assumes that '… whether or not "family life" exists is essentially a question of fact depending upon the real existence in practice of close personal ties' (European Court of Human Rights, 2022, p. 77). An assessment of any violations of Article 8 is therefore based on a broad concept of family. The right to family life may include both kinship and other relationships between the child and persons without biological ties to the child. But the assumption then is

that there is a *de facto* family life over a certain period. (Sørensen, 2016, p. 337). The more distant the kinship, the greater the requirement that there is an important bond between the child and the person in question (Bendiksen, 2008, p. 119). This illustrates well the importance of the Child Welfare Services having up-to-date information about the child's actual life situation and attachments. Also, foster parents can be an important part of the child's family life. In a judgment from 2016, the Norwegian Supreme Court noted that the European Court of Human Rights has recognised that the relationship between foster parents and foster children can constitute family life pursuant to Article 8 in the European Convention on Human Rights (HR-2016-1111, paragraph 51). One example of this is Moretti and Bennedetti v. Italy from 2010, where the court ruled that the foster parents and the foster child had a conventionally protected family life. The case concerned a child who was adopted into a family other than the foster family. A study of how the European Court of Human Rights interprets family in cases concerning adoption from foster homes shows that the family unit is understood in terms of biological relationships, but in more recent cases the relationships between foster parents and siblings are also included. This understanding is in line with recent research on how the bonds between children and parents are created through personal and caring relationships and activities (Breen et al., 2020, p. 741).

The European Court of Human Rights case law thus shows that the Court has a nuanced understanding, where the concept of family includes three important components: the judicial, the biological, and the social/emotional. Of these family ties, biological and social conditions seem to be of the greatest importance (Bendiksen, 2008, pp. 114–115). However, when we look at recent developments in European Court of Human Rights convictions and the criticism Norway receives, European Court of Human Rights places considerable emphasis on the biological connection and value. At the same time, this can also be seen by the fact that European Court of Human Rights uses biological arguments to highlight the importance of the child's environment of origin in child welfare cases, which includes the legal, biological and social family. The biological principle expresses the fundamental value on which we have historically built, and which remains a very important foundation of our society. The fact that Child Welfare Services takes an open and nuanced view of the concept of family when dealing with child welfare cases is an important safeguard of the biological principle. In this way, modern family forms gain the space necessary

to fulfil the right to family life. The assumption is that this family life is in the child's best interests. The Child Welfare Services and the courts are therefore always responsible for seeing the unique child, and getting an overview of who are the important caregivers for the child. This will also better safeguard the child's right to care and protection.

Tensions between different conceptions of the family

Another path to understanding the concept of the family than the European Court of Human Rights is the Convention on the Rights of the Child. The UN Committee on the Rights of the Child also has a broad understanding of family, and in General Comment No. 14 on the best interests of the child, the committee considers that the concept of family in Article 16 of the Convention on the Rights of the Child shall be broadly interpreted (paragraph 59): 'The term "family" must be interpreted in a broad sense to include biological, adoptive or foster parents or, where applicable, the members of the extended family or community as provided for by local custom' (Article 5).

The Convention on the Rights of the Child is the only convention that distinguishes between parents and other family members in the text. Like the conventions, section 102 of the Constitution has no clear definition of what family is, and within the Norwegian understanding of law, it is more uncertain as to whether the constitution's concept of family is as broad as the concept of family following from human rights conventions (Sørensen, 2016, p. 335).

In the Official Norwegian Report (2020: 14), the committee has based its proposal for a new Children's Act on the fact that the understanding of family is changing, and that this understanding also varies between states and different cultures (Official Norwegian Report, 2020: 14, p. 35). They assume that family encompasses much more than biological ties. A family is a group of people who may be connected by kinship, adoption, or a foster home. It could be a traditional nuclear family or a shared household with your, mine, and our children. Some parents are married, others cohabit with and without children, and others are single parents. The parents may be same-sex or fall under what are referred to as rainbow families, where, for example, two women have children with a friend. Legally, only two parents are allowed, but in these cases, the family is expanded to three parents (Norwegian Directorate for Children, Youth and Family Affairs, 2021).

Family can also include non-resident parents, grandparents, and former relationship partners.

In the preparatory work for the Child Welfare Act of 2021, it has also been assumed that family patterns and forms of cohabitation in society have changed considerably over the years (Official Norwegian Report, 2016: 16, p. 29). The Child Welfare Act of 1992 did not define the concept of family, although the term was used in the wording, for example section 4-4, where assistance measures were intended to lead to 'positive change in the child or in the family' (Ot.prp. no 44 (1991–1992)). The Child Welfare Act of 2021 also has no such definition, but section 1-5 highlighted children's right to family in a more explicit way (Prop. 133 L (2020–2021)). The Child Welfare Act is based on an understanding of the family that otherwise follows from the constitution and from human rights conventions. The fact that, for example, grandparents are an important part of our understanding of the family is emphasised in a Supreme Court decision in which a grandmother was granted visitation rights to her grandchild living in foster care (H.R. 2021-1437-A). Here, the grandmother was granted party status because the parents had very limited contact with the child. With reference to the preparatory work for the Child Welfare Act of 1992, the Supreme Court emphasised the importance of close family relations. When the parents have so little contact with the child, as in this case, the consequence will be that the child's contact with other family members and significant persons in the child's environment of origin is virtually cut off. Persons other than relatives may also be granted access rights after a care order, but in such cases, they must have a close connection to the child (Child Welfare Act 2021, section 7-3, second paragraph). The Child Welfare Act of 2021 also clarifies that following a care order, Child Welfare Services has a responsibility to 'strengthen ties with siblings and others who have an established family life and close personal ties to the child' (2021, section 7-5). As these examples show, such expansions of the concept of the family may also guide practice in both the Child Welfare Services and the judicial system.

Many of the demographic changes that have occurred are global. A greater diversity of family types also affects the understanding of what a family is. Ingeborg Schwenzer (2007) notes that family and the relationship between children and parents are no longer understood solely in terms of whether the parents are married or not. At the same time, there was also legal regulation of forms of cohabitation other than marriage. Family and

parenthood are partly constituted by marriage, but also socially by who shares the household as a family. A main point of Schwenser is that there is no unambiguous development of family forms and parenthood. While biological family and biological ties seem to have become less important, there are also cases where precisely this type of bond has been strengthened (Schwenser, 2007). This is also reflected in Norwegian legislation. According to the Children Act, children who have reached the age of 18 have the right to know who their biological father is. Schwenser mentions Norway specifically in this context, but points out that this is also a tendency in other countries. She therefore argues that there is tension between different conceptions of family and parenthood, in that biological ties can challenge both social and legal parenthood (Schwenser, 2007, pp. 6, 24). Legal rules often keep pace with developments. Whether parents are married or not has less relevance than before, thus gradually reducing the traditional *pater est* rule that the mother's spouse is the child's father. While the understanding of who the child's social parents are is gradually gaining traction, it seems that the biological origin of the child is also given greater emphasis. The right to family life and privacy is based on the freedom to arrange our lives as we see fit. As the principle of legality expresses, the state cannot override this freedom without a legal basis. This principle of law is one of the foundations on which our legal society is founded, and which is also enshrined in section 113 of the constitution. This freedom of action to decide for oneself and one's family clearly underscores that the law should be somewhat reticent in its role as a driving force here, especially given how the diversity of family life and childcare is still being shaped in ever new ways.

Understanding of family: Developments in Child Welfare Services

When Norway's first child welfare law was passed at the end of the 1800s, it was based on a growing understanding of the influence parents could have on their children. The relationship between state and family underwent extensive changes. The family was given more tasks and duties, and it was to an even greater extent than before subject to government regulations regarding marriage, fathers' duties, and the parents' upbringing of their children. The introduction of general schooling also imposed an additional task on parents in that they had to ensure that children received the

education they should have (Kvam & Tveiten, 2018). However, the state's control of the family was based mainly on an understanding that family life was private. Therefore, control consisted mainly of ensuring that the family could provide a stable and lasting framework for children's upbringing. One legislative amendment to contribute to this was the prohibition against living together without being married, which Norway enacted in the Penal Code of 1842, and which was continued in the Penal Code of 1902. This ban was lifted in 1972, but in the debate in parliament, there were several who argued for keeping the ban because marriage was best for both parents and children.

The first Child Welfare Act in Norway, the Act on the Treatment of Neglected Children, marked a change in the state's control of parents. A family with married parents was not necessarily enough to ensure a good upbringing of children. In the preparatory work to the law, it is stated that 'unworthy parents' shall be deprived of the right to raise children, while 'honourable parents' who are not quite able to take care of their children shall be helped (Oth. Prp. No 6, 1896, p. 3). A distinction is thus made between parents whom it is possible to help and parents who will not be able to take care of their children. Therefore, in some cases parents can be justifiably deprived of responsibility for the child. As the wording shows, this decision depends on an assessment of the moral quality of the parents. Therefore, one of the options for placement outside the biological family is to put the child away into a 'reliable and honourable family'. One consequence of the fact that the importance of the family for children is seen as more critical than earlier seems to be that control vis-à-vis the parents is tightened by direct intervention in the relationships between children and parents in the family. First, the use of corporal punishment in upbringing is limited. The law relating to the Limitation of the Application of Corporal Punishment, adopted in 1891, states that this form of punishment must be only 'temperate'. Second, it was argued that the state had the right to intervene in the family if the child was neglected. In the Child Welfare Act debate, Prime Minister Hagerup argued that the state must have the opportunity to intervene in the family if the child was not taken care of, without it being employed as a form of German state socialism. He argued that

> when, by exercising his right to care for the child, in particular by abuse of the right to upbringing, or by neglecting the child, the holder of parental responsibility endangers his mental or bodily well-being, … (Parliamentary Proceedings, 1896, p. 47; Kvam & Tveiten, 2018, p. 47)

He emphasised that the state's overall role as guardianship authority also included controlling authority over the parents' exercise of parental authority. The state's task was twofold. Based on the thinking of the time, the protection of the child went hand in hand with the protection of society, in that the state made sure to counteract unfortunate influences of the social environment (Dahl, 1985; Rose, 1999). The social order of society became the goal, and education became the means. To the extent that family and school were inadequate educators, the state had to step in by intervening in the family. The Child Welfare Services was given this task, and residential care and institutions emphasising harsh discipline became practical tools, since the idea was to compensate for the parents' neglect in the upbringing of their children. Legislative changes gave the state the right to intervene in families, and the scientific knowledge of psychiatry and psychology provided tools that Child Welfare Services could use with children and families.

However, psychology and pedagogy contributed to a greater extent than psychiatry in influencing the content of the Child Welfare Services' practical parenting work. Psychology not only influenced the classification and treatment of problems, but also contributed greatly to changing the dominant view of maladaptation and behavioural difficulties. First, the child's problems were linked to relationships with close caregivers, the immediate milieu in general, and the child's 'natural' development and needs at specific ages. Second, the 'morbidity stamp' was removed from those who needed treatment through emphasis on how the interaction between the child and the environment gave rise to problems. And third, psychology contributed to a more optimistic view of the efficacy of prevention and treatment. This psychological understanding also contributed to a reassessment of the family and the child's relationship with the parents (Ericsson, 1996; Hernes, 1996; Buer & Fauske, 2009).

The fact that children benefit from growing up with their own parents became a guideline for Child Welfare Services with the Child Welfare Act passed in 1953. The ideological basis for the law is clearly expressed in the preparatory work, and is a clear break with the Act on the Treatment of Neglected Children and previous practice. The Child Welfare Committee, which prepared the law, emphasised that children should grow up in 'a natural family environment with their own parents and siblings'. The strong emotional attachment that children had to their parents was an

argument that children would be better off with their parents even if there were 'certain deficiencies' in the home. The committee pointed out that not all parents were equally good providers and caregivers, but – it was argued – 'replanting the child in a materially and socially better environment' could be a greater strain than staying with one's parents (Ministry of Social Affairs, 1951, pp. 37–38). In these assessments of children's attachment to their parents and of the family's importance to children, the Child Welfare Committee was influenced by a psychological understanding of children's development and attachment to their parents. In Norway, as in many other countries, children's emotional development and what the Child Welfare Committee called 'problems of a mental hygiene nature' received greater attention than before (Ministry of Social Affairs, 1951, p. 46).

The Child Welfare Committee aligned with contemporary ideological currents. The same year that the committee submitted its recommendation, John Bowlby published his report about homeless children in post-war Europe and USA that the World Health Organization had commissioned. His conclusions, after reviewing research from Europe and the United States on children who had been separated from their parents, contrasted with a good deal of what had been written about childrearing from the early 1900s. Bowlby argued that except for the worst cases, parents who neglect their children also mean a lot to their children. These parents – despite all their shortcomings – provide their children with care, security, and the knowledge that they are valued for what they are. This, according to Bowlby, is why poor homes provide better developmental opportunities for children than even good institutions (Bowlby, 1952, p. 68). This report quickly gained widespread circulation.

Bowlby's ideas and the development of attachment theory on the importance of the emotional bonds between caregivers and the child have gradually become fundamentally recognised in the work of the Child Welfare Services. Interventions were to be implemented where there was an 'urgent need', and in choosing between alternative measures, the mildest was to be chosen. However, according to the intervention criteria, Child Welfare Services would assess the parent's treatment of the child in terms of whether the child's health or development was exposed to danger or harm. As Knut Sveri points out, the wording of the law provides little guidance on where to draw the line for danger or harm. In practice, it was difficult for child welfare boards, which consist of laypeople, to draw the line between normal

and abnormal conditions (Sveri, 1957, p. 125). Although the importance of the family was well established with the Child Welfare Act of 1953, in practice, care orders rather than preventive measures persisted. The intervention criteria concentrating on the risk to the child contributed to such practice. Where to draw the line meant finding a level of acceptable risk. Nevertheless, preventive measures were also increasingly used. In 1982, for the first time, more preventive measures than care measures were implemented, and by the beginning of the 1990s the proportion of preventive measures had increased further.

The 1992 Child Welfare Act distinguished between the two main types of measures: voluntary assistance measures and coercive measures. The reason for separating the conditions for these measures was that the threshold for intervening in the family should be low enough to prevent more serious problems at an early stage (see Ot. Proposition 44, 1991, 1992, p. 32). Support measures were to be implemented to prevent neglect and behavioural problems, and to safeguard the living conditions and welfare of the family and the child. In other words, it was expected that support measures would counteract the family's deficiencies. With this amendment, there is a shift towards a stronger emphasis on meeting children's needs, and ensuring good and safe conditions for growth in the family with their own parents. The reasoning was as in the preparatory work for the previous law, namely that attachment to parents was crucial for children's development and mental health.

Gradually, understanding of the attachment between the child and the parents was both expanded and deepened. The professional approach that also gradually characterised the work of the Child Welfare Services was an expanded understanding of the relationship between children and parents. Greater emphasis was placed on the emotional relationship and the parents' interpretation of the child's signals and needs in accordance with key parts of attachment theory. Thus, it also became a question of how these professional insights could have an impact on the assessment of the child's biological family. The question of whether attachment may be more important than growing up with one's biological parents was raised in the Official Norwegian Report (2012: 5) *Better Protection of Children's Development.* The biological principle is thoroughly considered in the report, and it concludes that children generally benefit from growing up with their own parents. However, the committee supports the position that the best interests of the child must be an overriding principle and a new

principle called developmental care is proposed. Regarding the importance of the biological principle in the future, it is pointed out that it will depend on societal developments (Official Norwegian Report, 2012: 5, p. 15). In the comments and discussions that followed the committee's report, several interpreted the committee's proposal as a contribution to weakening the biological principle (see Kjønstad, 2013, part 5).

Criticism of Norway for the interpretation of the child's right to privacy and family life changed the discussion of the biological principle, which is reflected in the preparatory work for the Child Welfare Act that was adopted in 2021.

The right to family life in the Child Welfare Act 2021

The road towards a new Child Welfare Act reveals varying views on the part of the authorities as to whether the fundamental principles of children's rights should be formulated in the text of the law. The Child Welfare Act of 1992 had no explicit rule on the child's right to a family, but it was nevertheless clear that the law was based on the biological principle.

In the Official Norwegian Report (2016: 16), the Child Welfare Law Commission proposed an overarching provision in the Child Welfare Act in line with human rights as expressed in the Constitution and in conventions: consideration for the best interests of the child, the child's right to care and protection, and the child's right to family life. The committee also proposed that consideration of the best interests of the child should be 'decisive' in all actions and decisions affecting a child so that this condition should not only be linked to implementing measures under the law. In the Consultation document from 2019, the Ministry did not wish to follow up on the commission's proposal to legislate the right to family life, and the right to care and protection in separate provisions (Ministry of Children and Equality, 2019). Several consultative bodies had argued that legislating the right to family life in the Child Welfare Act entailed a risk of strengthening the biological principle at the expense of children's need for attachment and relationship quality. The Ministry stated here that a statutory enactment could create ambiguity as to what legal content such an overarching provision on the right to family life should have in individual cases, but that the child's need to preserve the family environment and close relationships would be important factors

in an assessment of the child's best interests (Ministry of Children and Equality, 2019, p. 45).

In the proposal for a new Child Welfare Act (Prop. 133 L (2020–2021)), the Ministry has changed its stance and now proposed an overarching provision in section 1-5 of the Child Welfare Act concerning children's right to care and right to family life. The majority of the consultative bodies were still critical of regulating the right to family life. At the same time, the legal picture of Norway has been nuanced somewhat through new practices from the European Court of Human Rights and from the Supreme Court. In many cases against Norway, the European Court of Human Rights has found violations of Article 8 of the European Convention on Human Rights and the right to family life. In particular Strand Lobben et al. v. Norway from 2019 was thoroughly dealt with in the European Court of Human Rights Grand Chamber. Considering these legal developments, the Supreme Court chose to hear three child welfare cases in the Grand Chamber in 2020, and here, the first respondent in HR-2020-661-S stated in paragraph 85:

> In Norwegian decisions, consideration of family ties is sometimes more of an implied, and partly unstated assumption, but consideration for the best interests of the child emerges most clearly, even though the Supreme Court in its decisions as mentioned has stressed the importance of family ties.

The Ministry also stressed that the purpose of legislating the right to family life in the Child Welfare Act 'is not to strengthen the biological principle beyond what already follows from sources of law of higher rank' (Ministry of Children and Family Affairs, 2021, p. 93), and has therefore chosen to legislate children's right to care and protection in the same section.

The 'mandate' of parents: Children and Parents Act

It is the parents who are responsible for their children. What the parental responsibility entails is set out in Section 30 of the Children Act. The Act gives parents a right that entails a duty to safeguard the child's interests and needs in the exercise of parenthood. As such, it is not a right granted to parents 'for their own sake' (Smith & Lødrup, 1993, p. 64). This right includes responsibility for the day-to-day care, upbringing, and care of children, as

well as ensuring that children develop in a safe environment and under sound conditions. Furthermore, the parents have the right and duty to make decisions for the child in personal matters within the framework set by the Act (the Children Act, 1981, section 30). The Children Act of 1981 also signals a different view of the family by replacing what were previously two laws, one for children born out of wedlock and one for children born in wedlock, by a common law. Children whose parents were single mothers or fathers, cohabiting or married couples, were incorporated into the same law, marking the equality of children with parents with different family forms. One important reason why there was no longer a difference between the law for unmarried and married couples probably had to do with the fact that an increasing proportion of children also had cohabiting parents, which meant that these children were formally born out of wedlock. Admittedly, children born out of wedlock had already in 1915 been given the same legal rights as children born in wedlock through what was called the Castbergian Child Laws. Johan Castberg, the politician who pushed the law through, argued that mothers should be recognised for assuming the social responsibility of caring for children. Nevertheless, in the 1956 revision of the law, two laws were retained, marking a difference between married and unmarried parents.

The Child Welfare Act is aimed at children living in conditions that may harm their health and development. In the Official Norwegian Report for a new law relating to children and parents, the Children Act (2020: 14), the most important rights for all children in Norway are gathered in the first chapter of the Act. This emphasizes with renewed vigour the importance of the child as an independent legal entity today, and how the best interests of the child as the fundamental consideration should permeate all decisions and actions that affect children. It follows from this that children must be allowed to form their own opinions and then be allowed to participate freely in decisions that affect them. Other fundamental rights for the child include the child's right to care and protection from violence and the child's independent right to family life.

In the years following 1981, the Act has been amended to place a stronger emphasis on children's participation. In the proposal for a new Children's Act, the rights of the child and the duties of the parents are clarified. Chapter 1 states that parents shall, like public services and institutions, allow the best interests of the child to be a fundamental consideration in all decisions and actions involving the child. The child shall be met with love and respect and shall have a secure childhood. The parents must ensure

that the child is allowed to participate and safeguard the child's right to care, development and protection against violence and abuse, as well as the right to family life. The right to family life means that if the parents consider it to be best for the child, the child must be ensured contact with both parents.

As stated in the current Children Act of 1981 and the proposal for a new Children Act, the duties assigned to parental responsibility are formulated quite similarly to those for professionals working with children. The Act applies to all parents, but it is only when the Child Welfare Services receives a concern that the child is not receiving adequate care, or that the Child Welfare Services itself considers the care to be of concern, that parents and children are subject to the Child Welfare Services' assessment. In the Child Welfare Services' assessment, emphasis is no longer placed on the parental cohabitation arrangements, but on whether the parents exercise their parenthood in a satisfactory manner. While a greater diversity of family forms has been legalised through changes in family law, there is also increased emphasis in the child welfare mandate and practice on the quality of the relationships between parents and children. In the proposal for the Child Welfare Act of 2021, this is expressed in the fact that the overriding principle of the best interests of the child shall be professional assessments of 'attachment and relationship quality, biological ties, mildest effective interventions and the child's participation' (Prop. 133 L (2020–2021), p. 77). This overarching principle was established in 'Prop. 106 L (2012–2013) Amendments to the Child Welfare Act' and confirmed in the proposal for the current Child Welfare Act.

Increasingly, the Child Welfare Services are tasked with making demanding and difficult assessments of the parents' competence, of the child's development and of the relationships between parents and children. In the Child Welfare Services' own reports and in expert assessments, attachment theory concepts and reasoning are often used. Such arguments are also used in Supreme Court decisions (e.g., HR-2020-00662-S.). Although attachment theory can be applicable and useful, a high level of knowledge and understanding is required to make it applicable in child welfare and legal contexts. In a pressured work situation, both misunderstandings and misuse of the theory can occur (for a more in-depth discussion, see e.g. White & Gibson, 2020, p. 105; Duschinsky, 2020, p. 549; Forslund et al., 2022; Duschinsky et al., 2023). It is also important to emphasize that relational quality encompasses a number of different relationships between parents and children

and that all relationships are not synonymous with the attachment theory's concept of attachment.

Balancing the parents' right to family life and the best interests of the child

When there is doubt in the Child Welfare Services about the principle of the child's own family and the child's need for care, the central question is what is in the child's best interests. Even though everyone agrees that the best interests of the child shall be a fundamental consideration in all actions and decisions affecting children (Convention on the Rights of the Child Article 3 no. 1, Article 104 of the Constitution and Child Welfare Act section 1-3), it is in the discretionary formulation of the concept that the very content of the child's best interests is difficult to obtain.

What is in the best interests of the child?

In general, we have a great deal of knowledge about what is in the best interests of the child and what is not, but what is in the best interests of the individual child in a concrete trade-off between the child's needs and the parent's wishes is often a demanding assessment. Nor is consideration for the child's best interests merely a standard of striking a balance between the child's right to care and protection and the right to family life. The principle primarily means that all children, as an independent legal entity, have a fundamental right to have their needs and interests specifically safeguarded. As the UN Committee on the Rights of the Child emphasises, children are completely dependent on adults and have a weak legal status with less opportunity to bring a case on their own behalf. This suggests that great emphasis should be placed on what is considered to be best for the child (Committee on the Rights of the Child, paragraph 37). The European Court of Human Rights also attaches importance to the considerations expressed in the Convention on the Rights of the Child in matters concerning children. Here, it is emphasized that the child's best interests should not be the only consideration, but it should be «a primary consideration» (Strand Lobben, 2019, paragraph 207). Consideration for other children in the case and for parents will also be factors that must be taken into account, but not in such a way that the best interests of the child become only one of several considerations:

> If harmonization is not possible, authorities and decision-makers will have to analyse and weigh the rights of all those concerned, bearing in mind that the right of the child to have his or her best interests taken as a primary consideration means that the child's interests have high priority and not just one of several considerations. Therefore, a larger weight must be attached to what serves the child best. (Committee on the Rights of the Child, paragraph 39)

The Committee on the Rights of the Child also highlights several factors that may be appropriate to emphasise in the assessment of a child's best interests: participation, identity, the child's particular vulnerability, health and education, care and protection, and preservation of the family environment and maintenance of relationships. Several of these factors have also been incorporated into Chapter 1 of the new Child Welfare Act and may be used as arguments in the specific assessments that the Child Welfare Services face when the child's need for care must be weighed against the child's right to family life and the parent's right to live with their own children. These factors mentioned by the Committee on the Rights of the Child must also be assessed against each other, depending on the specific situation the individual child is in. In this discretionary assessment one must not only look at the present situation but also emphasise the child's capacity to develop. The Child Welfare Services must therefore be reluctant to implement measures that are irreversible and definitive but be open to possible scenarios for how the child and the family can develop in the short and long term (Committee on the Rights of the Child, paragraph 84).

This highlights how demanding it is for the Child Welfare Services to weigh up such considerations. As the Court puts it in the Strand Lobben judgment: The authorities must strike a fair balance between these interests, but that particular weight should be given to the child's best interests (2019, paragraph 206). This is also emphasized by the Supreme Court in H.R. 2020-661-S, paragraph 95. Here, the Supreme Court refers to the Strand Lobben judgment's statement that family ties should be maintained unless the parents are particularly unfit and that the parents cannot demand measures that will harm the child's health or development. Regarding visitation following a care order, according to the European Court of Human Rights judgment K.O. and V.M (paragraph 69), the parents cannot demand visitation that would be an unreasonable burden on the child ('undue hardship'). In subsequent judgments, the Supreme Court has held that 'undue hardship' does not mean that the scope of visitation

should be close to the child's tolerance limit (HR-2020-1967-A, Section 61 and HR-2020-2081, Section 74). Nevertheless, it will still be a major challenge for the Child Welfare Services to find a reasonable limit for what the child should tolerate in terms of stress, whether in their everyday life or when they have access rights after a care order.

Balancing the child's right to care and protection, and the objective of reunification after care orders

After the many convictions against Norway in the European Court of Human Rights, the Norwegian Child Welfare Services now have a strong focus on children's connection to biological families and the goal of reunification of children placed in foster homes and reunification of children and parents. A common feature of the judgments against Norway is that the Norwegian authorities have placed too little emphasis on family ties (HR-2020-661-S, paragraph 84), and have placed too much emphasis on the care orders being long-term (Søvig & Vindenes, 2020, p. 196). In this context, the best interests of the child are often understood as the child's need for care and protection outside his or her family in a neutral foster home. However, the Supreme Court emphasises that all care orders are generally regarded as temporary and that family ties are an important part of the principle of the best interests of the child (Ministry of Children and Family Affairs, 2020). The state has a duty to actively work to maintain the relationship between children and parents so that they can be reunited. The Child Welfare Services clarifies its responsibility for identifying measures that enable children to stay at home in their families and measures that entail that children can be returned to their families after placement in foster homes. The measures must therefore be designed in such a way that they create the prerequisite for reunification if possible. Among other things, the criticism of Norway in the Strand Lobben judgment was that the Child Welfare Services could not argue with a lack of affiliation where this was initially caused by the access that was severely restricted by decision-making authorities.

The term attachment, as used by the Supreme Court, addresses the child's relationship to people and the environment in which it is, that is, the child's current care base (HR-2020-1788-A). It will normally be the foster parents, but the criterion may also be relevant for other care bases. The term also includes school, friends, local community, etc. In cases where the child has

lived in the same foster home for a long time, the attachment will be strong. A safe and good connection to the foster home is not a sufficient reason why a return to biological parents should not take place. A care order should be a temporary intervention, and the reunification objective is central. It is therefore only where relocation can cause serious problems for the child that a care order should not be revoked. The attachment exception concerns the real risk of long-term adverse effects. If it is essentially a transitional problem, the connection will not be an obstacle to reunification. Far more long-term problems of a serious nature may mean that reunification cannot take place.

Some of the criticism from both the European Court of Human Rights and the Supreme Court that is particularly important in these types of cases is that the assessments that have been made have not been thorough and good enough. The quality of the decision-making basis, weighing up and justification are particularly important when the question of reversal comes up. The discussion must be based on an adequate and up-to-date basis for decision-making and have a balanced and sufficiently broad assessment and have a satisfactory justification (ref. HR-2020-661-S). A decision to deny reunification must show how the reunification goal is intended to be met in the future if possible or explain why the goal may need to be abandoned. As long as the provision is practised accordingly, it is not, in the opinion of the Supreme Court, contrary to the human rights obligations.

Conclusion

The importance of the family for children's upbringing is still given great importance today. The decisive factor is the relationship between parents and children and, more generally, between adults and children. These relationships are partly rights-based, while what is otherwise qualitatively good relations is academically and theoretically justified. In terms of the relationship between the state and the family, the family has a high degree of autonomy in how they want to live their lives, but is limited by general requirements for parental responsibility, school obligations and basic requirements for care. Child Welfare Services intervene in the family based on the assumption that parents do not fulfil the duties that parental responsibility entails and are no longer suitable or able to

provide children with the care required. Children's rights have become an important basis for assessments of parenting and the relationship between children and parents. In the wake of the European Court of Human Rights rulings, attachment to one's own family has become an even more important issue for Child Welfare Services than before. In addition, Child Welfare Services must assess attachment and relationship quality, where these concepts are rooted in theory and research, and form the basis for assessments.

The result of the European Court of Human Rights' rulings and decisions of the Supreme Court is that the Norwegian Child Welfare Services have taken a new turn in their professional trade-offs between various considerations in child welfare cases. The complexity of the cases has become more apparent, and this complexity also seems to be reflected in the professional assessments. The Child Welfare Services are required to achieve a high degree of <u>both</u> adequate care and protection <u>for the child</u>, while choosing solutions entailing that the child also maintains a relationship with family and networks when possible. Child Welfare Services must therefore be aware of which relationships and conditions are important to the child. The focus is more on solving problems where the child lives, in the child's local environment. However, when the child does have to move out of the home, these important relationships must be safeguarded as far as possible. The new pivot also implies that an increased recognition of how important the local environment is, also shows respect for the child and the child's real life. Most children in child welfare already have a daily life that can consist of many significant people, such as extended family, friends and their family, teachers, and neighbours. This complex network and its significance for the child's care situation requires time and interest to understand. The responsibility of the Child Welfare Services is also to strengthen these important relationships, but this responsibility, for obvious reasons, cannot rest with Child Welfare Services alone. All agencies that are part of a child's life have a similar responsibility. The responsible authorities must cooperate closely in order for children to be able to retain and increase the good care they receive from people they are associated with. Therefore, the new and broader understanding of what a family is, who is important in the child's network, as well as insight into the concrete quality of these relationships will be decisive.

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References

Achard, D. (2010). *The family: A liberal defence*. Palgrave Macmillan.

Banda, F., & Eekelaar, J. (2017). International conceptions of the family. *International and Comparative Law Quarterly, 66*(4), 833–862. https://doi.org/10.1017/S0020589317000288

Bendiksen, L. B. L. (2008). *Barn i langvarige fosterhjemsplasseringer: Foreldreansvar og adopsjon* [Children in long-term foster care placements: Parental responsibility and adoption]. Fagbokforlaget.

Bendiksen, L. R. L., & Haugli, T. (2021). *Sentrale emner i barneretten* [Key topics in Child Law] (4th ed.). Universitetsforlaget.

Berrick, J. D. *The impossible imperative: Navigating the competing principles of child protection*. Oxford University Press.

Bernt, C. (2019). Fruktbar dialog og fallitterklæring for barnevernet? Om samtaleprosess i barnevernssaker [Fruitful dialogue and declaration of failure for the CPS? About the conversation process in child welfare cases]. *Tidsskrift for Familierett, Arverett og Barnevernrettslige Spørsmål, 17*(1), 3–7. https://doi.org/10.18261/issn.0809-95532019-01-01

Bjorklund, D. F., Myers, A. J., & Bartolo-Kira, A. (2020). Human child-rearing and family from an evolutionary perspective. In W. K. Hartford, & F. van der Vijver (Eds.), *Cross-cultural family research and practice* (pp. 50–119). Elsevier Academic Press.

Bowlby, J. (1952). Maternal care and mental health: A report prepared on behalf of the World Health Organization as a contribution to the United Nations programme for the welfare of homeless children (2nd ed). World Health Organization monograph series (No. 2).

Breen, C., Krutzinna, J., Luhamaa, K., & Skivenes, M. (2020). Family life for children in state care: An analysis of the European Court of Human Rights' reasoning on adoption without consent. *The International Journal of Children's Rights*, *28*(4), 715–747. https://doi.org/10.1163/15718182-28040001

Buer, B. A., & Fauske, H. (2009). Barnemishandling, omsorgssvikt og sosial kapital [Child abuse, neglect and social capital]. In R. Rønning & B. Starrin (Eds.), *Sosial kapital i et velferdsperspektiv: Om å forstå og styrke utsatte gruppers sosiale forankring* (pp. 98–112). Gyldendal Akademisk.

Christiansen, Ø., Havnen, J. S., Iversen A. C., Fylkesnes M. K., Lauritzen C., Nygård, R. H., Jarlby, F., & Vis, S. A. (2019). *Barnevernets undersøkelsesarbeid. Når barnevernet undersøker, delrapport 4* [Child welfare investigation work. When the Child Welfare Services investigate. Sub-report 4]. Regionalt Kunnskapssenter for Barn, Nord (RKBU Nord), UiT – Norges Arktiske Iniversitet.

Dahl, T. S. (1985). *Child welfare and social defence*. Norwegian Press.

Duschinsky, R., Granqvist, P., & Forslund, T. (2023). *The psychology of attachment (The psychology of everything)* (p. 42). Taylor and Francis.

Duschinsky, R. (2020). *Cornerstones of attachment research.* Oxford University Press.

Eide, S. B. (2020). Barnets beste: Barnevernets formål i spenning mellom individuelle og relasjonelle hensyn [The best interests of the child: The purpose of the child welfare service in tension between individual and relational considerations]. In O. Lysaker & T. E. Fredwall (Eds.), *Verdier i konflikt: Etikk i et mangfoldig samfunn* (pp. 121–139). Cappelen Damm Akademisk. https://doi.org/10.23865/noasp.95.ch6

Forslund, T., Granqvist, P., Van Ijzendoorn, M. H., Sagi-Schwartz, A., Glaser, D., Steele, M., Hammarlund, M., Schuengel, C., Bakermans-Kranenburg M. J., Steele, H., Shaver P. R., Lux, U., Simmonds, J., Jacobvitz, D., Groh, A. M., Bernard, K., Cyr, C., Hazen, N. L., Foster, S., … Duschinsky, R. (2022). Attachment goes to court: Child protection and custody issues. *Attachment & Human Development*, *24*(1), https://doi.org/10.1080/14616734.2020.1840762

Helgesen, J. (2019). EMD – voteringene i Strand Lobben-saken [The votes in the Strand Lobben case]. *Lovdata*. Retrieved 29 September 2023 https://lovdata.no/artikkel/emd_voteringene_i_strand_lobben_saken_/2524

Hernes, S. (1996). Barnevern i 1950-årene: Om psykologiens profesjonalisering [Child welfare in the 1950s: on psychology's professionalisation]. In V. Erichsen (Ed.), *Profesjonsmakt: På sporet av en norsk helsepolitisk tradisjon* (pp. 429–437). Tano Aschehoug.

Kamerman, S. B. (2010). Child, family, and state: The relationship between family policy and social protection policy. In S. B. Kamerman, S. Phipps, & B.-A. Asher (Eds.), *From child welfare to child well-being: International perspective om knowledge in the service of policy making* (pp. 429–437). Springer.

Kjønstad, A. (2013). *Nye trender i rettsvitenskapen* [New trends in jurisprudence]. Gyldendal Akademisk.

Kvam, V., & Tveiten, A. (2018). «… uden Hensyn til Forældrenes Villie». Om vergerådslovens pedagogikk i et foreldrerettsperspektiv ['… without regard for the will of parents.'

On the pedagogy of the Guardian Council Act in a parental rights perspective]. *Historisk Tidsskrift*, 97(1), 40–58. https://doi.org/10.18261/issn.1504-2944-2018-01-04

Lurie, J., Sørlie, H. E., Kvaran, I., & Tjelflaat, T. (2018). *Familiens og barneverntjenestens erfaringer med barnevernundersøkelser* [Family and child welfare services' experiences with child welfare investigations]. NTNU Regionalt kunnskapssenter for barn og unge – psykisk helse og barnevern.

Læret, O. K., & Skivenes, M. (2016). Kvalitet og legitimitet i barnevernets beslutninger [Quality and legitimacy in child welfare decisions]. In Ø. Christiansen & B. H. Kojan (Eds.), *Beslutninger i barnevernet* (pp. 34–47). Universitetsforlaget.

McGowan, B. G. (2010). An historical perspective on child welfare. In S. B. Kamerman, S. Phipps, & B.-A. Asher (Eds.), *From child welfare to child well-being: An international perspective on knowledge in the service of policymaking* (pp. 25-48). Springer.

Mead, M. (1932). Contrasts and comparisons from primitive society. *The ANNALS of the American Academy of Political and Social Science*, *160*(1), 23–28. https://doi.org/10.1177/000271623216000105

Oxford Research. (2019). Evaluering av utprøving av samtaleprosess i fylkesnemndene for barnevern og sosiale saker [Evaluation of testing of the dialogue process in the county boards for child welfare and social affairs]. https://oxfordresearch.no/wp-content/uploads/2019/02/Evaluering-av-fors%C3%B8k-med-samtaleprosess-i-fylkesnemndene.pdf

Rose, N. (1999). *Powers of freedom: Reframing political thought.* Cambridge University Press.

Schneider, N. F., & Kreyenfeld, M. (2021). *Handbook on sociology of the family.* Edward Elgar Publishing Limited.

Schwenzer, I. (2007). *Tensions between legal, biological and social conceptions of parentage.* Intersentia.

Sentralenheten for fylkesnemndene for barnevern og sosiale saker (2016). Retningslinjer for samtaleprosess i fylkesnemndene [Guidelines for the dialogue process in the county boards].

Skivenes, M. (2021). Adoption from care in Norway. In T. Pösö, M. Skivenes & J. Thoburn (Eds.), *Adoption from care* (pp. 139–156). Policy Press.

Smith, L., & Lødrup, P. (2006). *Barn og foreldre. Forholdet mellom barn og foreldre etter barneloven av 1981 med senere endringer* [Children and parents. The relationship between children and parents under the Children Act 1981 as amended]. Gyldendal Akademisk.

Sveri, K. (1957). *Barnevernsloven: Lov om barnevern av 17. juli 1953* [The Child Welfare Act: Child Protection Act of 17 July 1953]. Universitetsforlaget.

Sørensen, C. B. (2016). Barnevern og menneskerettighetene. Vedlegg 4 [Child welfare and human rights. Appendix 4 to NOU 2016: 16 New Child Welfare Act. Safeguarding the child's right to care and protection]. NOU 2016: 16 Ny barnevernslov. Sikring av barnets rett til omsorg og beskyttelse. Ministry of Children and Equality.

Søvig, K. H., & Vindenes, P. H. (2020). Avgjørelser fra EMD i saker om vern av privat- og familieliv fra 2019–2020 [Decisions of the ECHR in cases concerning the protection of private and family life from 2019–2020]. *Tidsskrift for familierett, arverett og barnevernrettslige spørsmål*, *18*(3–4), 173–209. https://doi.org/10.18261/issn.0809-9553-2020-03-04-02

Therborn, G. (2004). *Between sex and power: Family in the world 1900–2000.* Routledge.

White, S., & Gibson, M. (2020). *Reassessing attachment theory in child welfare: A critical appraisal.* Policy Press.

Wyness, M. (2014). Children, family and the state: Revisiting public and private realms. *Sociology*, *48*(1), 59–74. https://doi.org/10.1177/0038038512467712

Laws

Constitution. (1814). *The Constitution of the Kingdom of Norway* (LOV-1814-05-17). Lovdata. https://lovdata.no/dokument/NLE/lov/1814-05-17?q=grunnloven

Children Act [Barnelova]. (1981). *Lov om barn og foreldre* (LOV-1981-04-08-7). Lovdata. https://lovdata.no/dokument/NL/lov/1981-04-08-7?q=barnelova

Child Welfare Act [Barnevernloven]. (1992). *Lov om barnelovtjenester* (LOV-1992-07-17-100). Lovdata. https://lovdata.no/dokument/NLO/lov/1992-07-17-100?q=barnevernloven

Child Welfare Act [Barnevernsloven]. (2021). *Lov om barnevern* (LOV-2021-06-18-97). Lovdata. https://lovdata.no/dokument/LTI/lov/2021-06-18-97

Official Norwegian Reports

Official Norwegian Report [NOU 2012: 5]. (2012). *Better protection of children's development – the expert committee's report on the biological principle in child welfare* [Bedre beskyttelse av barns utvikling – ekspertutvalgets utredning om det biologiske prinsipp i barnevernet]. Ministry of Children and Family Affairs.

Official Norwegian Report [NOU 2016: 16]. (2016). *New Child Welfare Act – securing the Child's right to care and protection* [Ny barnevernslov – sikring av barnets rett til omsorg og beskyttelse]. Ministry of Children and Equality.

Official Norwegian Report [NOU 2020: 14]. (2020). *New Children's Act – in the best interests of the child* [Ny barnelov – til barnets beste]. Ministry of Children and Family Affairs.

Official Norwegian Report [NOU 2023: 7]. (2023). *Safe childhood, secure future – review of legal protection for children and parents in child welfare* [Trygg barndom, sikker fremtid gjennomgang av rettssikkerheten for barn og foreldre i barnevernet]. Ministry of Children and Family Affairs.

Propositions etc.

Ministry of Children and Equality. (2019, april). *Consultation document – Proposal for a new Child Welfare Act* [Høringsnotat – Forslag til ny barnevernslov].

Ministry of Children and Families. (2020). *Information letter on the processing of child welfare cases – new decisions from the Supreme Court* [Informasjonsskriv om behandlingen av barnevernssaker – nye avgjørelser fra Høyesterett].

Ministry of Social Affairs. (1951). *Recommendation of the Committee on Child Welfare. I. Child Protection Act. Committee appointed by Royal Decree of 7 November 1947* [Innstilling fra barnevernkomiteen. I. Lov om Barnevern. Komiteen oppnevnt ved kongelig resolusjon 7. november 1947].

Norwegian Directorate for Children, Youth and Family Affairs. (2021). *Family, parenthood and children* [Familie, foreldreskap og barn].

Oth. Prp. No. 6 (1896). *Concerning the drafting of a law on the treatment of neglected Children* [Angaaende Udfærdigelse af en Lov Om Behandlingen af Forsømte Børn].

Ot.prp. No. 44 (1991–1992). *Proposition to the Odelsting (bill). About the Child Welfare Services Act* (Barnevernloven) [Om lov om barneverntjenester (barnevernloven)].

Ot.prp. No. 76 (2005–2006). *Proposition to the Odelsting. On the Act relating to amendments to the Child Welfare Act and the Social Services Act, etc. (procedural rules for county boards for child welfare and social affairs, etc.* [Om lov om endringer i barnevernloven og sosialtjenesteloven mv. (saksbehandlingsregler for fylkesnemndene for barnevern og sosiale saker mv.)].

Parliamentary Proceedings. (1896). Negotiations in the Odelsting and Lagting [Forhandlinger i Odelstinget og Lagtinget]. *45*(8), *Stortingstidende*.

Prop. 84 L (2019–2020). *Proposition to the Storting (bill). Amendments to the Child Welfare Act (conversation process, annual status reporting, etc.)* [Endringer i barnevernloven (samtaleprosess, årlig tilstandsrapportering mv.)].

Prop. 133 L (2020–2021). *Proposition to the Storting (bill). Child Welfare Act and Child Welfare Act Amendments* [Lov om barnevern (barnevernsloven) og lov om endringer i barnevernsloven]. Ministry of Children and Family Affairs.

Conventions and declarations

Convention on the Rights of the Child. (1989, 20 November). United Nations Treaty. Series (Vol. 1577, p. 3); depositary notifications C.N.147.1993.TREATIES-5 of 15 May 1993 [amendments to article 43 (2)]1; and C.N.322.1995.TREATIES-7 of 7 November 1995 [amendment to article 43 (2)] [FNs konvensjon om barns rettigheter. 20. november 1989].

European Convention on Human Rights as amended by Protocols Nos. 11, 14 and 15 supplemented by Protocols Nos. 1, 4, 6, 7, 12, 13 and 16. European Court of Human Rights.

European Court of Human Rights. (2022). Guide on Article 8 of the European Convention on Human Rights. Right to respect for private and family life, home and correspondence. Updated on 31 August 2022 https://www.echr.coe.int/documents/d/echr/convention_ENG

United Nations General Assembly. (1948). *The Universal Declaration of Human Rights (UDHR)* [Verdenserklæringen om menneskerettigheter 1948].

United Nations Committee on the Rights of the Child. (2013). General Comment No. 14 On the right of the child to have his or her best interests taken as a primary consideration (article 3, para. 1) [Generell kommentar nr. 14 om barnets rett til at hans eller hennes beste skal være et grunnleggende hensyn].

CHAPTER 2

How Parental Relationships Influence Young People's Identities and Meaning Constructions of Family and Family Life

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Abstract: Even though parental mental illness and substance abuse are considered a serious risk to children's wellbeing, most children with such parental problems are cared for at home. In the Norwegian Child Welfare Services (CWS), more than 75 per cent of children are supported while living with their parents. In this chapter, we will listen to the voices of young adults on their experiences of growing up with parental mental health problems and or/alcohol and drug issues. The study explores those practices and processes that young adults themselves identified as everyday ways of 'doing family' and how these practices helped them 'get by' in regard to these challenging experiences in their childhoods. Furthermore, the chapter discusses how parental relationships influence young people's identities and meaning constructions of family and family life.

Keywords: child agency, family practices, parental troubles, belonging

Introduction

> I'm just trying to outline a family – it's like ripples in water. Throw a stone in the water and it reverberates in communication and interaction within the family. It is very difficult for me. But I'm an adult. I have words and can describe it, and I have an actual choice. But children don't. They don't have words, and they have to endure it. They can't leave. My youngest son has been attending support groups, and it has been important for him. Because children are dependent on their parents. He can't choose to opt out, and neither could the other children. I can choose to leave, but children can't. And he loves his father very much.
>
> (Mother of four children married to a man with severe mental health problems)

This excerpt is taken from an interview with a mother, reflecting on how her husband's mental health struggles have significant consequences for the entire family, especially the children. Children rely on their parents and are subject to their care. When parents struggle with mental health issues or addiction, both the family system and daily routines are disrupted. In recent years, there has been extensive research on the impact this has on children. Research shows that when the problems significantly affect parental functioning, children can experience unpredictability, fear, insecurity and, in severe cases, neglect (Velleman & Templeton, 2016; Wangensteen et al., 2018; Haugland & Nordanger, 2015; Kufås et al., 2015). This research also highlights that some children take on early adult responsibilities by taking care of younger siblings and even caring for their parents (Kallander et al., 2017; Moore et al., 2011). Furthermore, research points out that both parents and children often experience shame and stigma when parents have addiction issues or severe and chronic substance abuse problems (Backett-Milburn et al., 2008; Werner & Malterud, 2016; Delås, 2015; Halsa, 2018).

In the research tradition known in Norwegian as *barn som pårørende forskning* and in English as 'young carers', children are often positioned as vulnerable, and the focus of research has largely been on psychological harm. The sociologist and childhood researcher Wyness (2019) criticises the tendency to overlook children's agency and competency

in this research. He argues that children who demonstrate competence outside of what he calls developmental and pedagogical paradigms are either described as dangerous or overdeveloped (Wyness, 2019, p. 125). He illustrates this point by highlighting that children who, for example, take on unconventional roles in the generational hierarchy (e.g. young carers) are seen as deviant children in need of care and protection, and there is little research on how children themselves understand their position.

This chapter aims to discuss how young people and young adults living in families where a parent has a severe substance abuse or mental health problem talk about how they have dealt with the situation and the relational practices that have developed in their families. In anthropological and sociological research on families, Morgan's (2011) concept of family practices has been of great significance in understanding what a family is. Janet Carsten (2000) uses the term 'relatedness' to clarify that a relationship is not a given phenomenon, but something that is created in interaction with others. Like Morgan, she argues that family is not a fixed entity with predefined positions, but something that is done through practices to show that one is connected to one another. In the family practice approach, the focus is on what family members do in relation to each other, and by engaging in these practices, relational bonds are reinforced and reproduced, often understood as family relationships. What particularly characterises family relationships is dependence, love, intimacy, and shared concerns and commitments (Morgan, 2019, p. 2227). Family commitments develop over time, through past dependency and reciprocity (Finch, 2007).

Morgan (2019, p. 2227) argues that individual problems, such as substance abuse or mental health issues in parents, affect the entire family. The opening quote illustrates this very point. When a father is severely depressed, it affects patterns of interaction and everyday practices, and these experiences construct and reconstruct how family members understand themselves as 'family'. Family practices, according to Morgan (2019), are characterised by boundary work that defines who belongs and how they belong. This is also a central point for sociologist Carol Smart (2007), who has written about how individuals shape their family relationships through memories, traditions and stories, and how these in turn influence their feelings and thoughts about their family. She has explored and written about the significance of the symbolic

meaning of family narratives for the individual's identity work and self-understanding. She argues that the understanding of family is also influenced by the cultural context in which it exists. Images of functioning families considered as normal have gained significant discursive power through academic literature, welfare professionals and the media, making it difficult to showcase family practices that deviate from this normative image. The concept of normalcy, as discussed by Söderström in Chapter 6, refers to canonical cultural narratives about the way things are or should be. Research conducted on adolescents (15–16 years old) raised in families with substance abuse issues shows that these adolescents tend to idealise family bonds, despite many of them reporting feeling betrayed by their parents (Wilson et al., 2012). Researchers believe that one reason for this tendency is the lack of available cultural narratives that these adolescents can use to tell their own childhood stories. This aligns with Smart's (2007) argument that it is crucial for the individual's identity work to be able to construct a respectable narrative about oneself. According to Smart, when you talk about your family, you are telling a story about yourself.

However, Smart (2007) criticises the fact that sociological literature has predominantly focused on the positive aspects of family life, such as belonging, love and care, when analysing family life. She uses the term 'the haunting power of blood relationship' to illustrate that the power of blood ties can also be negative and difficult to escape, even if one desires to do so. Breaking close family bonds is associated with shame, she argues. An example of this can be seen when a child cuts off contact with one or both of their parents. In this case, everyone would understand that something extraordinary and unfortunate has happened in this family, as it is so uncommon for children and parents not to maintain a lifelong connection (Halsa, 2020).

This chapter is based on six qualitative interviews with adolescents and young adults (17–28 years old) who have parents with serious mental health problems or substance dependencies. Specifically, I inquire about how these adolescents and young adults have had the opportunity to exercise agency by asking: How does this agency play out among family members who are connected by close emotional bonds? In the stories of these young people, age is emphasised as crucial for their own agency. Theoretically, I have drawn inspiration from the new sociology of childhood to understand what is inherent in children's agency.

Children's and young people's relational agency

Childhood studies aim to make visible and study social and cultural understandings of childhood (Abebe, 2019, 2021, p. 283; Raithelhuber, 2016; Spyrou, 2018). There has been a great debate among childhood researchers about how children's agency should be understood and, in recent years, many have argued that children's agency is socially and relationally produced, and is not an attribute of the individual child (Spyrou, 2018; Prout, 2011; Raithelhuber, 2016). Several childhood researchers point out that agency should be understood as dynamic, situated and contextually conditioned in order to capture the fact that children's agency is influenced by complex contexts, structures and relationships (Abebe, 2019, p. 12, 2021, p. 282; Hammersley, 2017; Spyrou, 2018). Agency is shaped, reshaped and created in relationships and between generations. Such a perspective on agency highlights it as a process and shows that children can also experience varying degrees of agency in different situations, contexts or over time (Abebe, 2019, p. 6). Thus, agency is not a fixed entity but something that needs to be understood along a continuum. Abebe (2019), for example, distinguishes between thick agency and thin agency. Thick agency refers to the many choices that children and young people have as a result of good access to social networks and support systems, while thin agency refers to the opposite. The term 'tactical agency' can be used to show that children and young people can use creative strategies to help themselves (Abebe, 2019, p. 8). Kjørholt (2005) points out that children are not individual actors with their own interests and that children's desires and needs are largely intertwined and influenced by the wishes and needs of family members. Therefore, children's agency should be understood as a relational agency, i.e., this agency is exercised alongside adults. This means that children's agency must be understood as a relational practice, where the child often prioritises solidarity and togetherness with their parents over their own needs. Abebe (2019, p. 81) also points out that the mutual dependence between family members means that children's agency must be understood within this familial context.

Hence, when research on children growing up in families with substance abuse or mental health problems shows that children and adolescents rarely seek help or tell others about their difficulties, this may be explained by the mutual dependency that children and young people feel

towards their parents (Wangensteen, 2020; Halsa, 2020). They want to protect the parents they live with and love, they are afraid of splitting the family, or it may be because the young people's negotiations of identity are closely tied to the family they come from (Halsa, 2020, pp. 62–63). They exercise agency by refraining from seeking help, and this agency must be understood in terms of their simultaneous need to take care of siblings and parents, as well as how the family is perceived by others (Abebe, 2019, p. 10).

Method and data

The interviews that form the basis of this chapter were collected for a research project on young people's experiences of growing up with parents with mental illness and addiction. The project was funded by the Norwegian Research Council and was a collaboration between several researchers and doctoral students at the University College of Lillehammer. One of the sub-projects specifically focused on the experiences of children and parents, and as a part of this project, we interviewed a total of 32 children, young people and young adults about their life stories. All were next-of-kin to parents with mental health and/or addiction problems, recruited through the treatment institution attended by their parent, in NGOs working with children, user's organisations or self-recruitment after receiving information. The data were collected between 2014 and 2015. Söderström's chapter uses the same data.

To conduct these in-depth interviews, we developed an interview guide with open-ended questions. We focused on eliciting the life stories of the informants, exploring their upbringing, home situation, school experiences and life as adolescents. We particularly emphasised coping strategies and where they sought social support. The interviews were recorded and transcribed.

To answer how young people and young adults have had the opportunity to exercise agency and how this agency plays out among family members, I reanalysed six in-depth interviews to examine how the young people talked about their relationships with their parents and their own agency. I made the assumption that young adults who had moved out of their parents' homes had the opportunity to exercise thicker agency than the youths still living at home or in close proximity to their parents. To investigate this, I selected three interviews with youths who were 17 years old and still

lived at home or in close proximity to their parents and three interviews with young adults who were between 23 and 26 years old.

The first step in the analysis was to thoroughly read each interview and specifically look for descriptions of everyday practices within families, focusing on the youths' agency and obligations towards family members. Then, I wrote condensed summaries and analysis notes on each of the interviews. In the next phase of analysis, I systematised, identified and compared the six interviews based on analytical questions about how they described family practices, emotional bonds and how they dealt with the difficulties they experienced. The plot I was looking for in this analysis was the youths' handling of their relationship with their parents. These experiences are understood in light of the youths' narratives about their anchoring in the nuclear family and their dependence on their parents. The analytical themes in the findings section are that memories from their upbringing are characterised by a lack of routines and significant contrasts for everyone. For the young adults (23–26 years old), it was important to create distance from their family of origin, while for the younger ones, their agency was about trying to find strategies that allowed them to live with the problems.

Presentation of the informants

A common factor among all the informants was that they talked about extremely difficult conditions in their childhood that had led to the development of mental health problems and difficulties in focusing on school tasks. Several of them had received treatment to process their experiences. Only one of the informants lived with both biological parents, while the others had grown up with only one parent, and two of them had also lived in foster care at times. Child welfare services (CWS) had been/are involved with five of the families, but all attributed little importance to the help they received from the CWS and believed that it had done a poor job when it was involved. However, they all mentioned important support persons who had meant a lot to them. For some, it was grandparents, for others, it was their mother's or father's former partner or teachers they had met in school. Below, I will briefly present the six young people.

Marie, 17 years old. She grew up with her mother and stepfather. Her mother drinks, which she has done since Marie was young. Marie was

noticed by a teacher at the end of secondary school, who spoke to her and assisted her in getting help from mental healthcare services for children and adolescents. She now lives with her father and has some contact with her mother. Her father does not have substance abuse problems and she considers her grandmother to be an important support person. The CWS has been involved since she was in daycare.

Viktoria, 17 years old. She grew up with a mother who was a former substance abuser and has a diagnosis of bipolar disorder. The CWS has been involved since her birth. Her father is deceased. He had substance abuse issues and Viktoria never knew him. Viktoria is doing well in school and attends upper secondary school. Her mother has had many partners and it was with her latest partner that she started using substances again. Due to this, Viktoria is currently living in foster care, but she has regular contact with her grandmother who is a very important person to Viktoria.

Carin, 17 years old. She lives with both parents and a sibling. Her father has a serious mental illness and experiences periods of psychosis. Carin attends upper secondary school and tells that she has had a difficult time coping with her father's illness, especially during her time in secondary school. She received treatment from mental healthcare services for children and adolescents and found it helpful. The family has not been in contact with the CWS.

Ruth, 23 years old. She was raised by her mother, who has a substance abuse issue. Her parents divorced before Ruth was born. She has three older siblings with whom she has maintained close relationships. Ruth has lived in foster care at times but moved back in with her mother when she was 11–12 years old. She has completed higher education but disclosed that she struggled with mental health issues during her time in upper secondary school.

Tom, 23 years old. He grew up with a mother who has a substance abuse issue. His mother has had multiple partners and Tom has two younger half-siblings. He got to know his biological father after starting school. When he was young, he believed that one of his mother's previous boyfriends was his father. Tom is currently studying. He contacted the CWS himself when he was 14 years old, which did not provide much help for him but resulted in his younger half-siblings being placed under the primary care of their father.

Kim, 26 years old. Both of Kim's parents have substance abuse problems and they divorced when Kim was young. Kim has three half-siblings.

He has lived partly with his mother and partly with his father and step-mother. He is currently pursuing an education, but for many years, he was outside the education system and job market due to mental health issues. His stepmother and grandmother have been important people in his life.

Memories of growing up: an everyday life characterised by a lack of routines and great contrasts

All the young people who participated in this study spoke of great contrasts in their daily lives, and that living with addicted or mentally ill parents was generally very difficult. They have all experienced unpredictability, fear and unstable routines at home, but for them, it was normal and they didn't know any different. 'And I can say that at its worst, it was hell at home for us. But back then, it wasn't hell. It was life' (Tom).

They all talked about important support figures outside the home, where they could seek shelter and protection when conditions at home became very difficult. Tom told us that one of his mother's former boy-friends was a father figure for him, 'I used to stay with him on week-ends, and he could also sleep at our place. He was a really kind guy who I thought was my dad.' Viktoria also turned one of her mother's partners into a father figure. She spoke fondly of Lars and his new part-ner, saying, 'I see Lars as my father, and I usually celebrate Christmas with his family.' She justified this by saying that her own family was 'not very Christmassy', while Lars and his partner celebrated Christmas traditionally.

When I asked about how daily life was in their families, they all spoke of a lack of routines and rhythms in daily life. Tom said:

> No, it's difficult to answer what a typical day was like at home for us. Everything was more divided into episodes and divided into two categories: how I didn't want it to be and how I enjoyed being at home.

A lack of routines makes everyday life uncertain for children and young people. Author Vigdis Hjort (2022) wrote a coming-of-age novel that pro-vides rich imagery of how the rhythms of everyday life constitute the very foundation and security for the main character in the book:

> To eat breakfast while mother feeds little brother, to walk to school with little brother and do homework at the kitchen table amidst the smell of mother's activities, freshly baked bread, and silver polish …, that it repeated year after year. It had to continue like that. Going to school, coming home, going out to play with friends, coming back for dinner. (pp. 27–29, author's translation)

When young people in this study talked about childhood memories, all the stories were filled with descriptions of episodes and events that were strongly tied to emotions. It was about coming home to a mother they couldn't get in contact with, or stories about episodes of violence and parties gone out of control. Tom (23) talked about how these episodes still affected him:

> I have seen a lot of violence. I have seen him (one of my mother's former boyfriends) smash all the plates we had in the cupboard, and he has broken our windows … and I was bullied at school from the first day. I sometimes have nightmares at night. I can never get rid of these memories. They are like scars on my body.

Kim (26) says he is still deeply affected by a childhood of neglect. He says he has trouble trusting others, but the worst memories are tied to his mother locking him in a room while she went out:

> It's the deprivation of freedom, being locked inside so much. When I was locked in, I couldn't go to the bathroom, I couldn't eat, and there was no light. And there was this unpredictability. Because I never knew how long I would have to stay there.

The three older informants talked a lot about how childhood experiences have an impact on their everyday lives today and how these memories shape their understanding of themselves now. All three talked about a longing for love and understanding. Tom puts it this way, 'I feel a big emptiness inside me that I never got filled. Which has resulted in me longing for love, not necessarily from a partner, but from a close person.'

The younger informants spoke more about fear, uncertainty and how the unstable family life affected their daily lives here and now. They also talked about having a lot of adult responsibilities and being left to themselves. Marie (17) described her everyday life while living with her mother:

> I always had to make dinner for myself because either she was sleeping or she was drinking. I don't have siblings and I felt quite lonely. I cleaned and tidied a lot and felt very good at keeping things clean and taking care of the animals.

In this quote, Marie showed that she felt she had to take care of herself and that she was responsible for keeping the house in order while living with her mother. However, Smart (2007) states that such family memories are unstable and linked to emotions. We clearly remember episodes where we were very sad or very happy (p. 39), and what we remember is also linked to the present and where we are today. Therefore, this memory should also be understood in light of the fact that Marie now lives with her father, and she said he picks her up from her friend's house, cooks dinner for her and watches movies with her in the evenings. She said herself that she experiences stability with her father, while she found daily life with her mother stressful and unsafe.

As mentioned, memories are influenced by the context in which we share them. Three of the young people in this sample had moved out of their family homes several years ago, while the other three lived with or near their family homes and had close contact with their parents. The narratives they shared were clearly influenced by age and the distance they felt they had from their parents. The older ones talked about their project of 'getting away', while the stories of the younger ones largely revolved around how they dealt with everyday problems.

Getting away

This strategy involved moving out of the childhood home and trying to create distance from their parents. Several mentioned that when they were younger, they simply longed to grow up and be old enough to move out:

> I just waited to reach an age where I could decide a little for myself. It's the small things in everyday life that got me through, like going on trips with my dad, getting to have dinner at my friend's place and getting a job when I was 13 years old.

Here we see that Tom (23) pointed out some small disruptions to the everyday routine that helped him to get through. He managed to move out of his mother's home at the age of 17 by choosing a upper secondary school programme that wasn't offered in the city where he grew up. Ruth mentioned that she chose to pursue education and settle in a different city than her mother to avoid close contact with her. Kim gave the same explanation for why he and his partner moved to a different part of the country than the one his parents lived in.

Everyone found it liberating to establish themselves outside of their parental home. At the same time, everyone's stories contained tales of 'bringing the baggage along'. When they gained distance, the memories of their childhood homes became clearer. Tom (23) expressed it this way:

> I feel awful now … Now I understand, and that makes things worse. I delve into my past. For example, when I'm sitting on the train with some time to myself, I think and understand how terrible things could be, and I become disappointed in the adults who let it happen … It's even more visible today.

While Tom actively revisits his childhood memories to process and try to understand what happened and why things turned out the way they did, Ruth metaphorically described how she attempts to keep the memories at a distance. She said:

> I will always be a 'child of'. I like to think that I carry a suitcase with me, and it will always be with me. Some periods, the suitcase is very heavy, but right now, it's a bit closed. But, like when we had that incident a year ago, it was very heavy. I completely broke down.

When Ruth said she will always be a 'child of', she was referring to how she will always be influenced by her childhood experiences of her mother's substance abuse and the painful events that followed. This experience is a part of her identity and how she understands herself (Smart, 2007). In the quote, she referred to an incident that opened the lid of the suitcase, causing the old emotions to burst out. In short, the incident involved a family gathering with siblings, brothers-in-law, and nieces and nephews, where her mother got extremely drunk and verbally abused everyone. Ruth said she had never seen her mother that awful before.

The stories of these three individuals illustrate what Smart (2007) refers to as the power of kinship ties. They all talked about periods when they had little contact or distance from their families, but the family experiences still have a significant impact on their lives.

Everyone talked about how they had little contact with their parents at times, but they are unable to break the bonds with their mothers. It is easier to break the bonds with fathers who have been absent or had a peripheral role in their lives. Ruth told us that she no longer had the strength to stay in touch with her mother after that incident:

> A year ago, we had a lot of contact. She has social anxiety, so my siblings have little contact with her, and I felt like I had to maintain the connection. After the incident, we had some contact over the phone, but when I see her, I feel repulsed … It's very difficult for me to not have contact because I was used to being the one who would call and ask. And now, no one knows if she's alive, but I check Messenger.

This quote shows that family bonds are strong. As the youngest daughter, Ruth felt responsible for her mother. Despite her mother's behaviour at the family gathering, which resulted in Ruth's suitcase being opened, she struggled to cease staying in contact. Even Kim (26), who talks about a childhood marked by severe neglect by his mother, still maintains some contact with her. As a child, he was locked in a closet for hours multiple times, kicked out of the house and sent away to his grandparents. For several years, he had minimal contact with his mother, but he divulged that he has recently tried to reconnect with her:

> We exchange a few messages. For the first time in 15 years, my partner and I celebrated Christmas with her and my siblings last year. It was ok, but then she starts treating me like a friend. We've tried to reestablish contact, but it always falls apart … So sporadic contact is ok. Just knowing where in the world she is … I never think of her as my mum. She's someone I have to deal with, someone I have a history with.

As we can see from the above quotes, family bonds come with obligations (Morgan, 2019; Finch, 2007), which make it nearly impossible to completely break away from the relationships with mothers.

When it comes to relationships with fathers, there is much more variation. Ruth and Tom had little contact with their fathers during their childhood. As previously mentioned, Ruth's parents divorced before she was born and her father passed away when she was a teenager. She had limited interaction with him. Kim, on the other hand, has lived with his father and stepmother for longer periods of time. His father struggled with addiction and Kim recounted many painful episodes from the time he lived with his father. Today, they have little to no contact. Kim said:

> I don't have contact with him. I saw him last autumn. He has a new partner and a daughter. The partner is nice, but I don't have space for him in my life, so I don't have the energy to meet him. There might be a text message every six months.

Being able to move away from the family home and establish oneself independently was a relief. Several people mentioned that taking an international year during upper secondary school made it possible to get away. At the same time, getting away led to the painful memories of their childhood becoming clearer and more difficult to handle.

'Family is like a micro-society, and when something is off, it has a big impact on you.'

This statement came from 17-year-old Carin, but the stories told by Marie (17) and Viktoria (17) can be summarised under the same heading. Their everyday lives are closely intertwined with their parents, and their parents' wellbeing greatly affects their own lives. All three mentioned that particularly during secondary school, things were heavy and demanding for them. They had become old enough to understand their parents' problems, while feeling powerless to do anything about them. Carin related that her mother had told her about her father's illness when she was quite young (7–8 years old), and she further explained:

> But back then, I didn't understand much. Suddenly, I realised that I had never lived in a normal family. My father became seriously ill when I was in eighth grade. That was the first time it really hit me because I was older and I was right in the middle of it all.

In recent years, her father has had two prolonged psychotic episodes, of which Carin has a clear notion of when they started and when they subsided. Carin briefly and simply mentioned that her father can have long periods of stability, yet during those periods he may have downturns and function relatively poorly. However, when she talked about her father's psychoses and bad periods, she became desperate and gave detailed descriptions. She said, 'He speaks with a different voice, gets angry over the slightest things, argues with Mum, scolds and shouts, and says things he wouldn't have said before.' The worst part about these episodes is that there is a long period of time from when family members realise 'it's happening again' until her father is admitted to the hospital. She said, 'We tried to talk to his GP many times about him needing to be admitted, but the doctor wouldn't listen. Mum fought to have him admitted, but it was in vain'. She continued:

> To protect children from their parents, they need to be hospitalised when they are that sick. Dad needs to be admitted and get his medication because he won't take them at home. So, in the end, I was so desperate that I sent a text message to my dad's psychologist and wrote that he needed to be admitted because I couldn't take it anymore. I received a response saying she would do what she could. She (the psychologist) got Dad to the doctor, and finally, he was admitted. Even though everyone tells me it's not my responsibility to get Dad admitted, the alternative is 'to endure something even more difficult.' When Mum says he need an admission, no one listens to her.

Here we see that Carin demonstrated what Abebe (2019) refers to as thick agency. For the sake of herself, her brother and her mother, she took control of the situation and contacted her father's psychologist to have him hospitalised. She showed competence and took on what Wyness (2019) has labelled as an unconventional role in the generational hierarchy, and she received feedback that she should not have.

Marie told us about being in a desperate situation in secondary school. She felt trapped by her mother's alcohol abuse. She did not tell anyone about her mother's drinking. Even though she had frequent contact with her father, who lived in a different part of the country, and her grandmother, who lived nearby, she did not want them to know about her mother's situation, 'because I didn't want my dad and his family to have a negative relationship with Mum.' She said that she asked her mother to stop drinking, but her mother got angry and said she did not have any problems. At the end of ninth grade, Marie told us that she was so depressed and upset that she reached out to a teacher she trusted and told her about the situation at home. The teacher helped her to get in touch with a GP who then referred her to mental healthcare services for children and adolescents. When we spoke to Marie, she had been receiving treatment there for two years and said she had received a lot of help 'in dealing with everyday life with my mum.' From the way she told her story, we understood that she divided her life into a 'before' and a 'now'. Before, she was afraid, desperate, lonely, unfocused at school and did not want to bring friends home. Now that she has moved in with her father, life is easier, she has more friends and feels less lonely. She said that the help from the mental healthcare services had been important because:

> I have learned not to take on my mum's issues, because they are her problems, not mine. I have to separate my life from her problems. And then I go to Dad's and just try to forget about it. She has to handle it herself. It's a bit mean to say, but that's how I did it.

Viktoria's childhood was, to a great degree, influenced by her mother's bipolar disorder and her many partners. Thanks to a present and supportive grandmother, her childhood was relatively stable until she started secondary school. When her mother did not cook meals, she could eat at her grandmother's, and when her mother was unwell, she would periodically stay with her grandmother. Viktoria said she was used to her mother's manic and depressive episodes, but she did not like the fact that her mother was involved with so many violent men. Viktoria also revealed that one of these men had been violent towards her when she tried to help her mother in a difficult situation. She further explained that she had always been academically successful and had many friends, but after these episodes of violence, she developed mental health issues and started acting out a bit herself. Throughout her childhood, the CWS have been involved, and she has had a stable weekend foster home. Her mother and the CWS wanted this home to be used as a permanent foster home when Viktoria could no longer live at home. However, Viktoria did not want to move, and she said this about the CWS:

> I wish they had listened more to what I say. It's strange that they move me away from my mum when I'm 17 years old … I'd rather stay here (with my mum) because this is home. But child welfare services think it's not stable enough … My foster family is more like a traditional family, where they eat dinner together every day and stuff.

Viktoria, like many young adults, is just waiting to turn 18 so she can make decisions for herself. She plans to move into a flat with a friend. She feels that there are significant contrasts between the home she grew up in and where she currently lives. She describes her foster family as nice, but there are so many rules there that she is not used to.

A common thread among these young informants' stories is that their understanding of themselves and their agency, as well as their perceptions of what is possible for them, are profoundly influenced by their concern for their parents. Carin with the bipolar father said that she found the situation with her father so difficult that she desperately needed someone to talk to. She talked about having a supportive mother, but then said:

> It is very difficult to talk to Mum about it because she is going through it herself, and then to say that being at home is very, very difficult. I can't tell Mum that it's exhausting to be at home because I don't want it to sound like I'm blaming her.

Because of this, she found others outside of the family to talk to. When her father was sick while she was in secondary school, she used her class teacher as a conversation partner: 'I needed someone to talk to, and she thought I should talk to her. And she used all morning lessons to talk to me.' When her father got sick again while she was in upper secondary school, she recounted how she argued her way into therapy despite resistance from the general practitioner and long waiting lists. The therapy sessions were of great help, but it was important that her father did not find out that she was going there. She said:

> He (Dad) has been very upset because Mum has told him some things he has caused us, and it's difficult for him to hear. And finding out that because of him, I've had to go to therapy, it's not something I want him to hear.

In the stories of all these young informants, who live closely with their parents, we see an agency that is characterised by weighing their own needs against what they believe is best for their parents. Marie did not want to tell her father and grandmother about her mother's substance abuse, out of consideration for her mother. Carin did not want to burden her mother by telling her how difficult it was to be at home when her father was sick, or tell her father that she was seeking treatment because of his illness. At the same time, we see that their agency is process-oriented and fluctuates with age. When Marie finally dared to tell about her mother's substance abuse, she got help from her father and the therapist to move away from her mother, and she also realised that neither her father nor her grandmother have distanced themselves from her mother even when after finding out about her substance abuse.

Conclusion

The narratives of the young individuals illustrate the significant impact that childhood experiences have had on their own identity development and self-understanding, as well as how family relationships create dependencies and obligations that are difficult to escape. A central point in the chapter is that the youngest participants shared stories about how to handle situations in the present moment, while the older adolescents focused on understanding and relating to their childhood experiences. The power of blood ties is evident in the stories of the young individuals. The young

adults chose to establish geographic distance from their parents to avoid daily contact, yet their childhood experiences persist as painful memories that are hard to shake off. The way they handled these difficult childhood experiences varied. Ruth metaphorically described 'packing them up in a suitcase', but acknowledged that carrying this suitcase could be burdensome and, sometimes, the lid pops open. On the other hand, Tom actively processed his childhood experiences by 'scrutinising my past.' He equated his memories to scars on his body.

The experiences of growing up with instability, fear and the inability to disclose their parents' problems align with other research on children with mentally ill or substance-abusing parents (Velleman & Templeton, 2016; Wangensteen et al., 2018; Kufås et al., 2015). Through the narratives of the youngest participants, the point is exemplified that 'the family is a micro society'. When a parent has severe mental health issues or is addicted to substances, it creates ripples that affect the entire family, which Morgan (2019) refers to as family troubles. The lives of the young individuals are tightly intertwined with the parents they live with, both physically and through strong emotional bonds. The challenges faced by the parents also become challenges for the young individuals. They understand that their own pain stems from their parents' difficulties and as a result, they feel unable to seek help and support from within their immediate family. They do not want to burden their parents with guilt and shame. In this sense, we can see that the agency of children and young individuals is constrained by the dependencies, love and obligations they feel towards their parents. From the stories they shared, we can also deduce that agency is a process, and their agency must be understood along a continuum (Abebe, 2021, p. 298). Carin and Marie demonstrated agency when they told adults outside the family about their home situations, which led to them receiving help in processing their experiences and finding strategies to cope with the difficulties they live with. Marie explained that the most important thing she learned in therapy was to establish clearer boundaries between her mother's problems and what she should be concerned about and take responsibility for.

When these young individuals reflected on their upbringing, their memories were not strongly tied to rhythms, daily routines, holidays such as Christmas or summer vacations, or pleasant moments with their families. They have not had the support and cultural help to construct a cohesive narrative about themselves because their upbringing has been different

from their classmates or how it is portrayed in books. Deviations from a happy childhood, as Hennum (2002) suggests, are seen through disruptions in cultural practices where children do not experience a sense of belonging and security. According to her, a happy childhood involves reading books, singing bedtime songs, cosy Saturdays in front of the TV and cosy cabin moments with a fire in the fireplace. These are not the stories that the young people in this study share about their home experiences.

At the same time, the findings show that a family is not a fixed entity, but something that can be negotiated. The stories of the young individuals actively seeking out fathers they like and who are trustworthy individuals demonstrate what Abebe (2019) refers to as tactical agency. Viktoria has defined Lars as her father, and she visits him and experiences the Christmas joy that she missed at home with her mother.

Author biography

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References

Abebe, T. (2019). Reconceptualising children's agency as continuum and interdependence. *Social Sciences*, *8*(3), 81. https://www.mdpi.com/2076-0760/8/3/81

Abebe, T. (2021). Rekonseptualisering av aktørskap i barndomsstudier [Reconceptualising agency in childhood studies]. In T. Abebe, M. Ursin & I. Sørensen (Eds.), *Barndomsstudier i norsk kontekst: Tverrfaglige tilnærminger* (pp. 281–303). Gyldendal.

Backett-Milburn, K., Wilson, S., Bancroft, A., & Cunningham-Burley, S. (2008). Challenging childhoods: Young people's accounts of 'getting by' in families with substance use problems. *Childhood*, 15, 461–479. https://doi.org/10.1177/0907568208097202

Carsten, J. (2000). 'Knowing where you've come from'. Ruptures and continuities of time and kinship in narratives of adoption. *Journal of the Royal Anthropological Institute*, *6*, 687–703. https://doi.org/10.1111/1467-9655.00040

Delås, G. M. (2015). Barn i familier med alkoholproblemer og skam – barn i familier med alkoholproblemer er ofte bærere av skam. Hva kan være årsakene til skamfølelsen, hvordan oppleves den, og hvordan påvirker den deres hverdag? [Children in families with alcohol problems and shame – children in families with alcohol problems often carry shame. What can be the causes of this feeling of shame, how is it experienced, and how does it affect their

everyday life?]. *Tidsskrift for psykisk helsearbeid*, *12*(4), 298–306. https://doi.org/10.18261/ISSN1504-3010-2015-04-04

Finch. J. (2007). Displaying families. *Sociology*, *41*(1), 65–81. https://doi.org/10.1177/0038038507072284

Halsa, A. (2018). Trapped between madness and motherhood: Mothering alone. *Social Work in Mental Health*, *16*(1), 46–61. https://doi.org/10.1080/15332985.2017.1317688

Halsa. A. (2020). Familieverdier i spill. Ungdoms erfaringer med barneverntjenesten når mor eller far har rusproblemer [Family values at play. Young people's experiences with child welfare services when the mother or father has substance use problem]. In H. Nordby & A. Halsa (Eds.), *Verdier i barnevern* (pp. 153–172). Cappelen Damm Akademisk. https://doi.org/10.23865/noasp.103.ch8

Hammersley, M. (2017). Childhood studies: A sustainable paradigm? *Childhood*, *24*(1), 113–127. https://doi.org/10.1177/0907568216631399

Haugland, B. S. M., & Nordanger, D. Ø. (2015). Utviklingstraumer som forståelsesramme for tiltak for barn av rusmisbrukere [Developmental trauma as a framework for measures for children of substance users]. In B. S. M. Haugland, K. E. Bugge, M. V. Trondsen & S. Gjesdahl (Eds.), *Familier i motbakke: På vei mot bedre støtte til barn som pårørende* (pp. 159–173). Fagbokforlaget.

Hennum, N. (2002). *Kjærlighetens og autoritetens kulturelle koder: Om å være mor og far for norsk ungdom* [The cultural codes of love and authority: On being a mother and father to Norwegian youth] [PhD dissertation, Norwegian University of Science and Technology]. NTNU Open. http://hdl.handle.net/11250/271307

Hjort, V. (2022). *Femten år. Den revolusjonære våren* [Fifteen years. The revolutionary spring]. Cappelen Damm.

Kallander, E. K., Weimand, B. M., Becker, S., Van Roy, B., Hanssen-Bauer, K., Stavnes, K., Faugli, A., Kufås, E., & Ruud, T. (2017). Children with ill parents: Extent and nature of caring activities. *Scandinavian Journal of Caring Sciences*, *32*(2), 793–804. https://doi.org/10.1111/scs.12510

Kjørholt, A. T. (2005). *Childhood as a social and symbolic space: Discourses on children as social participants in society* [PhD dissertation, Norwegian University of Science and Technology]. NTNU Open. http://hdl.handle.net/11250/264979

Kufås, E., Faugli, A., & Weimand, B. (2015). *Barn og ungdom som har foreldre med rusmiddelproblemer – en kvalitativ levekårsstudie* [Children and young people who have parents with substance abuse problems – a qualitative study of living conditions]. Helsedirektoratet.

Morgan, D. (2011). *Rethinking family practices*. Palgrave Macmillan.

Morgan, D. (2019). Family troubles, troubling families and family practices. *Journal of Family Issues*, *40*(16), 2225–2238. https://doi.org/10.1177/0192513X1948799.

Moore, T., McArthur, M., & Noble-Carr, D. (2011). Different but the same? Exploring the experiences of young people caring for a parent with an alcohol or other drug issue. *Journal of Youth Studies*, *14*(2), 161–177. https://doi.org/10.1080/13676261.2010.522561

Prout, A. (2011). Taking a step away from modernity: Reconsidering the new sociology of childhood. *Global Studies of Childhood*, *1*(1), 4–14. http://dx.doi.org/10.2304/gsch.2011.1.1.4

Raithelhuber, E. (2016). Extending agency: The merit of relational approaches for Childhood Studies. In F. Esser, M. S. Baader, T. Betz & B. Hungerland (Eds.), *Reconceptualising agency and childhood: New perspectives in Childhood Studies* (pp. 89–101). Routledge. https://doi.org/10.4324/9781315722245-8

Smart, C. (2007). *Personal life: New directions in sociological thinking*. Polity Press.

Spyrou, S. (2018). What kind of agency for children? In S. Spyrou (Ed.), *Disclosing childhoods: Research and knowledge production for a critical Childhood Studies* (pp. 117–156). Palgrave Macmillan. https://doi.org/10.1057/978-1-137-47904-4_5

Velleman, R., & Templeton, L. J. (2016). Impact of parents' substance misuse on children: An update. *Advances in Psychiatic Treatment, 22*(2), 108–117. https://doi.org/10.1192/apt. bp.114.014449

Wangensteen, T., Bramness, J. G., & Halsa, A. (2018). Growing up with parental substance use disorder: The struggle with complex emotions, regulation of contact, and lack of professional support. *Child & Family Social Work*, *24*(2), 201–208. https://doi.org/10.1111/ cfs.12603

Wangensteen, T. (2020). *Når stigma og skam står i veien for at barn som har foreldre med rusmiddelavhengighet får besyttelse og meningsskapende samtaler. En kvalitativ studie* [When stigma and shame prevent children who have parents with substance use disorder from receiving protection and meaningful conversations. A qualitative study] [PhD dissertation, Inland Norway University of Applied Sciences]. http://hdl.handle.net/11250/2646029

Werner, A., & Malterud, K. (2016). Children of parents with alcohol problems performing normality: A qualitative interview study about unmet needs for professional support. *International Journal of Qualitative Studies on Health and Well-being*, *11*(1). https://doi. org/10.3402/qhw.v11.30673

Wilson, S., Cunningham-Burley, S., Bancroft, A., & Backett-Milburn, K. (2012). The consequences of love: Young people and family practices in difficult circumstances. *Sociological Review, 60*(1), 110–128. https://doi.org/10.1111/j.1467-954X.2011.02049.x

Wyness, M. (2019). *Childhood and society*. Red Globe Press.

CHAPTER 3

Family Ruptures and Un-Belonging: Discomfort in the Norwegian Child Welfare and Migrant Minority Families

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Abstract: This chapter responds to a heated political debate on the Norwegian Child Welfare Services, with a focus on migrant minority families who report fear that child welfare will 'steal' their children and ruin their family, thus violating a sense of belonging and wellbeing. Based on in-depth interviews with parents and child welfare workers, and inspired by critical phenomenology, the chapter reveals experiences of discomfort and un-belonging. Feelings of discomfort, as well as feelings of belonging and wellbeing, are not only products, but also 'do' things in child welfare as they mobilise actions, decisions, and interpretations, and are thus lively actants in the service process. Keeping in mind the assessment management guiding childcare workers, making and sustaining family and home are at stake here, and yet a sense of discomfort and un-belonging is created among migrant families because their views, narratives, and truth are largely neglected. In addition, many childcare workers experience a 'gnawing feeling', which in turn plays a role in many child welfare workers' experience of discomfort in their practice. I suggest that turning towards a concern for affections and feelings can be a way forward to gain migrant minority families' trust, and to support central experiences of family, home, and belonging, as well as to sustain social justice and integrity in future child welfare services.

Keywords: migrant minorities, child welfare, affections, discomfort, (un)belonging, social justice

Introduction

This study was initiated in part as a response to a heated social and political debate on The Norwegian Child Welfare Services, relating to overall issues of how decisions and interventions are justified with reference to the 'best interest of the child'. The debate is particularly hot in terms of the relationship between migrant minority families and child welfare and forms the scope of this chapter. The experiences of migrant minority families are characterised by a 'fear that the child welfare might steal our children' (see Oslo Economics, 2019; Norwegian Immigrant Forum, 2013). To understand such fear and what appears as a kind of mismatch in the relationship between migrant minority families and childcare workers, I take an approach exploring emotions and affections to appreciate and explain reported experiences of insecurity, distrust, and discomfort on both sides. Here, emotions and affections are employed as analytical concepts to capture an important and often neglected emotional meaning in what is communicated during interviews, and in the expression 'fear of the child welfare'.

A report (Ipsos, 2017) made on behalf of The Norwegian Directorate for Children, Youth and Family Affairs (Bufdir) states that 41 per cent of the immigrant population have great trust in the child welfare, against 55 per cent among the total population. Furthermore, more than one out of ten in the immigrant selection report no trust in the child welfare. The experiences of The Norwegian child welfare workers, migrant minority families, and interest organisations indicate a conflicted relationship between migrant minority families and the child welfare characterised by distrust, misunderstandings, problems of cooperation, and a fear that the child welfare discriminate and might 'steal our children' (Oslo Economics, 2019; Fylkesnes et al., 2015; Paulsen et al., 2014; Vike & Eide, 2009; Norwegian Immigrant Forum, 2013; Kalve & Dyrhaug, 2009). It should be noted that these experiences are also partly valid for the child welfare cases involving the majority population. However, in a migrant minority context these experiences are accentuated and deeply precarious (see Söderström, 2012).

Studies show that not only are migrant minority families insecure and reluctant in their contact with the child welfare, the caseworkers may also be insecure and reluctant in taking on cases with minority families

(Bø, 2010; Qureshi, 2009; Rugkåsa, 2008). Research tends to interpret the difficulties resulting from misunderstandings and distrust in the child welfare services as being related to conceived cultural values due to different ethnic origins and concurring understandings of family life, childrearing, and the best interest of the child (Eide et al., 2015; Paulsen et al., 2014). Differences in cultural values, norms, and practices as an explanation is, in many cases, argued to culturalise social differences, and thus conceal a social reality of economic, educational, and social differentiations and problems (Ålund, 1997).

While acknowledging these issues, I underline a need to recognise the relationship between the child welfare and migrant minority families as both fluid and flexible, since it depends on and varies with concrete social relations and contexts. Exploring the meeting between migrant minority families and the child welfare workers, I seek beyond culturalisation and social differentiation, and take a critical phenomenological view, which understands social relations and cultural values as embodied (Bourdieu, 1989), and crucial to our affections and emotions, as these are intersubjective and occur in social contexts (Jackson, 1989). Thus, affections and emotions are seen to be formed in social contexts, while also understood to form practices and meanings (Ahmed, 2014). Through such an approach, I point out that different bodies experience and inhabit the world differently, and thus oblige us to understand these experiences in terms of power and social justice.

In the following I present a short background, placing the child welfare as a disputed socio-political and science-based profession. Then I introduce an analytical approach inspired by critical phenomenology and feminist theory, with attention to embodied sentiments and affections, followed by a note on the actual context of the study and the method of face-to-face interviews. From the interviews with migrant minority families involved with the child welfare and the child welfare workers, I present two narratives: one narrated by a refugee family, and one by a child welfare caseworker. These narratives were selected because they are seen to represent common features in most of the child welfare cases investigated here, and demonstrate how affects are a crucial dimension in the migrant minority families' experience, and the decision-making process of the child welfare casework.

Sketching a child welfare-scape

Across Europe there tends to be an understanding that childcare is largely and foremost a private and domestic affair not to be disturbed or governed by state interference. In Norway, as in the other Scandinavian countries, this tendency is challenged by the policy of a strong state and municipally governed the child welfare service, holding the individual child's best interest and lawful rights as its core concern. The governmental service is at one and the same time praised for rightful actions of protection, criticised for neglecting to act when needed, and for untimely interference when not needed. While child wellbeing and children's rights are vital values in Norwegian society and politics, the child welfare is harshly criticised, both nationally and internationally. In eastern and central Europe there have been large protests, demonstrations, and several political initiatives to influence The Norwegian child welfare (Weihe, 2016a). The perception among social workers in eastern and central European countries is that Norway steals, not just from the family, but from the entire nation (Skotheim interview with Weihe, 2020). In the spring of 2016, over 8,000 people demonstrated in eleven countries in connection with a case concerning a Norwegian-Romanian family (Bragdø-Ellenes & Torjesen, 2020). In autumn 2019, over twenty cases were appealed to the European Court of Human Rights (ECHR).

One study estimates that more than 400 children and young people settled in Norway were taken abroad against their will between 2016 and 2018, and the fear of the child welfare was the single most important reason (Oslo Economics, 2019). Based on the municipalities' feedback, 84 per cent of the children being moved abroad were fully or partly a reaction to the fact that child protection had become involved. Other important motives for emigration, which municipalities have experienced, are to prevent the children from becoming 'too Norwegian' (40 per cent), or to 'strengthen religious or cultural identity' (36 per cent) (Oslo Economics, 2019). Also, a number of media reports document migrant minority families' fear and difficulties with the child welfare services (see Utrop, 2021; Olsen, 2018a, 2018b; Stokke, 2013).

In casework with migrant minority families, standards of what is assumed to be a 'normal family' are not only regarded to be better than any others, but also close to the historically and cross-culturally universal, thus almost like a 'natural' institution offering the essential definition of

family (Stacey, 2011). Holding on to images of a universal 'normal family' and 'healthy child' – largely informed by disciplines of medicine, psychiatry, psychology, and criminology, often called the psy-complex (Ingelby, 1985; Rose, 1985) – the child welfare may be seen to (unintentionally) contribute to social injustice through the risk of ignoring how different peoples emphasise differently what is important for family relationships' sense of belonging and wellbeing. Distinct societies expect different kinds of development and profiles of children, and they employ various behaviour patterns to attain the skills and competences important for survival in their culture and the wider world (Roopnarine & Gielen, 2005). Categorising societies as having a 'collectivistic' or 'individualistic' orientation, is not sufficient to describe the many childrearing practices within a given culture.

Despite the authorities' efforts to inform and educate involved parties in the child welfare cases (targeted higher education for the child welfare workers, and the introductory programme for refugee and minority families run by the Directory of Integration and Diversity), the child welfare services still cause a high level of insecurity, misunderstandings, fear, and conflict (Fylkesnes et al., 2015; Paulsen et al., 2014; Kalve & Dyrhaug, 2009). When the child welfare services intervene with measures of guidance and coaching, many migrant families tend to experience ruptures and fragmentation in family relations, intimacy, and spontaneity (Brighouse & Swift, 2014). Such alteration and fragmentation challenge the family's identity and closeness, ways of doing and displaying family (Strasser et al., 2009; Finch, 2007), which are crucial in the family's quest for family life, since it includes transnational relations, multiple global locations, and expectations in places of origin, diasporic locations, and the host country of Norway (Seymore & Walsh, 2013).While families with migrant minority backgrounds are over-represented in the child welfare, this applies to supportive interventions only, and not to overtaking custody (Berg et al., 2017, p. 117). As appears in a report by Berit Berg et al. (2017) registered data show that the proportion of overtaking custody is on the same level for families with migrant backgrounds as for the non-migrant population. For children born in Norway with migrant backgrounds, the proportion of overtaking custody is lower than for children with non-migrant backgrounds. Thus, the debate on migrants and the overtaking of custody is based more on a myth than a reality of over-representation in custody takeovers (Berg et al., 2017). However, we know

that many minority families in which childcare is overtaken by the child welfare service experience not only the loss of custody of their children to another family, but also that these children tend to be estranged from their original social and cultural identity, and adjust to an identity which stands apart from their biological family (Aarset & Bredal, 2018; Paulsen et al., 2014; Skytte, 2006).

Embodying the child welfare: Affects and emotions

As described above, many families experience uncertainty and fear that the child welfare services will 'steal' their children, split, and ruin their family, and thus challenge and diminish migrant minority families' sense of belonging and wellbeing. In response to such fear, migrant minority families sometimes take steps to 'escape the child welfare'. There are examples of families who send their child(ren) to be taken care of by relatives in their country of origin or to a 'third' country, or one or both parents move and bring their child(ren) with them (Oslo Economics, 2019). Stories about families who have their child(ren) in the child welfare custody circulate among migrant minority families, creating images of an ill-intentioned child welfare service.

The assistance, support, and interventions introduced in migrant minority family life by the child welfare workers interplay and affect what is understood as acceptable familial structures and, I suggest perhaps as importantly, include acceptable processes of familial intimacy and identity. Having said this, I hasten to add a need to recognise the importance of trauma, rupture, fragmentation of family relations and everyday family life caused by migration and refugee processes in themselves. Nonetheless, I emphasise here the processes that take place after (escape) migration travel and in the phase of resettlement, since these may include contact with the child welfare services. From a critical phenomenological approach, there may seem to emerge a pattern developing into experiences of social injustice, discomfort, and un-belonging. Here, experiences of social injustice are seen to apply the same principles to all persons – such as holding on to images of a universal 'normal family' and 'healthy child' informed by the psy-complex disciplines – regardless of their particular social position and background, thus not paying sufficient attention to group differences and justice for minority populations.

From this view, I suggest that the child welfare service (and also the health and welfare services in Norway in general), in spite of working towards cultural sensitivity, may tend to ignore such differences and thus enact a practice that contributes to reducing experiences of family intimacy, home attachments, and a sense of belonging for migrant minorities. Seeing human beings as family and homemakers, because we construct our families and homes, I argue that how we experience ourselves, and function as persons, is linked to how we create a family and a home, and how we are able to do so. Considering family and home as constituted by intersubjective relations, family and home become crucial to practices of family relations, parenthood, and childrearing. This is all interwoven in feelings of discomfort and comfort, since it includes the sense of self, (un)belonging, (un)wellbeing, marginalisation, estrangement, and mental health.

Here, discomfort is conceptualised as an embodied experience and practice, which expresses both a deep inner and relational intensity, feeling or sensation. Drawing on Sara Ahmed (2014), Rachelle Chadwick (2021, p. 557) points out how feelings and affects are not attributes of individual selves, but responses to moving sets of relations between persons, bodies, discourses, and locations. As such, emotions become a source and force that produce the effects of the boundaries between an inside and an outside (Ahmed, 2014, p. 10), and I add, as the distinction between us and them. Exploring affects, we can then potentially recognise ways that differences and power relations interplay in what Clare Hemmings (2012, p. 152) observes 'not only draw us together, whatever our intentions, they also force us apart' (see also Chadwick, 2021, p. 559). In this view, I suggest that the child welfare can be seen as an affective practice, in which the affects circulating in the service – such as (in)security, (dis)comfort, empathy, antipathy, anger – are understood to be the results of connecting relational, embodied, discursive, and intersubjective dynamics, in other words, how emotions and affects move and form bodies and worlds. Accordingly, affects and feelings are not only results or products, but also 'do' things in the child welfare service as they mobilise actions, representations, decisions, meanings, and interpretations, and are thus lively 'agents' in the protection service production process. As Rachelle Chadwick argues, bodily sentiments and 'affects "turn us on" or "turn us off" to certain lines of thinking, conceptualizing, knowing, and making sense' (2021, p. 557). Thus, affects are epistemic sources for knowledge production and decision making. In this line of thought, the child welfare workers are affected by and affect

decision making and intervention processes, and consequently also affect the families and children in casework, and face-to-face encounters.

Context and method: Migrant minority families, practitioner involvement and face-to-face encounters

At the time of the study, the actual municipality, located on the Atlantic west coast, had already in the previous three decades received and settled refugees of different nationalities. The first refugees arrived in 1987/88 from Iran. Later, the municipality settled refugees mainly from Iraq, Somalia, Bosnia, Kongo, Afghanistan, Eritrea, and Syria. While not examining the details here, the overall purpose of the Child Welfare Act is understood to ensure that children and youth do not experience care failure or other harmful conditions while growing up. If there is a need for relief measures the child welfare service shall, as far as possible, offer measures within the home. Central tasks are to investigate the child's care conditions, implement voluntary relief measures, and if needed propose measures to be decided upon by the county board. The child protection service is to implement and follow up the county board's decisions. In all measures pursuant to the Child Welfare Act, emphasis shall be placed on what is best for the child. Contact persons present the child welfare services and actual issues in the various kindergarten and school parent and staff meetings, and other relevant fora.

In shaping and developing this project, the researchers-initiated dialogue and discussions with employees of the actual child welfare service office ensured the project's relevance to the practitioners, and incorporated their observations and experiences. When recruiting migrant families who were in contact with the child welfare, we relied on the childcare service's assistance. Of course, this raises issues of which families the office chose to select for us to contact. To secure a range of families with various reasons for contacting and receiving different kinds of assistance and interventions, we discussed and supervised the selection of families. All in all, we interviewed seven employees and twelve migrant minority families. The families represent both labour immigrants (from Lithuania, Latvia, Poland, Bulgaria, Albania, Colombia) and refugees (from Syria, Bosnia, African countries, Afghanistan). We conducted semi-structured, in-depth interviews with

both employees and the families. The interviews with employees were conducted in their office, while the interviews with families were conducted in their homes or places of the interviewees' own voluntary choice. The interviews with employees focused on their experiences and challenges in working with migrant families, if they had specifically relevant competence, and what basis and reasons their decisions tended to rely on. Interviews with the families focused on how they came to know about the child welfare service, their experiences with the service, if they felt sufficiently informed about their own case and the child welfare work, and what they felt to be most important in childcare and rearing. During interviews with both employees and families, there was a high degree of emotional expression, which is understood to indicate deeply sensed affects, experiences, meanings, values, and feelings. This is revealed in the content of what is verbalised, the words that refer to emotional experiences, and non-verbal expressions of tone of voice, of throat clearing, appearance of tears, and various facial and bodily expressions.

In the following, I introduce two illustrative cases that together elicit challenges and contradictions in the mutual aim of securing the child's best interest. The first case illustrates the experience of precarity of the migrant minority position, family rupture, and un-belonging from a father's perspective. The second case illustrates challenges in the child welfare position, competence insecurity, and discomfort from an employee's perspective. The case stories are constructions based on actual persons' narratives, though their narratives and details are modified to secure anonymity and confidentiality. Names are pseudonyms.

Case 1. 'We are afraid to lose our children, lose our family, lose everything'

Dawit, a father involved with the child welfare had lived in Norway for about four years when his daughter Senait came to Norway, somewhat younger than school age. Dawit explained that when he applied for family reunification, only his daughter came. His wife had fled their country of origin, and her visa had expired before she managed to come to Norway. Initially they lived happily together. As Senait grew older, she started to watch television, and neglected her school homework. Dawit explained that he unplugged the television to stop her from watching. He continued:

My daughter had several problems. She was involved in fights and beat up children at school. I am told that she tells others that she does not like African people, only white people, European people. Before she respected me, but not any longer. She only sits with her telephone. African children and Norwegian children cannot be together. We Africans struggle with finances, everything costs money. In Norwegian homes they have Play Station and all kinds of things. Our children visit Norwegian children, and they meet a completely different world. This is when the conflict starts, I lose all respect.

Dawit explains that Senait had a friend whom she visited quite often. He said:

The mother in the house said that Senait told them that I beat her, that Senait was afraid of me. One day, now Senait being ten years old, the child welfare took Senait and put her in a foster home. The child welfare called me on the phone and summoned me to a meeting. They treated me as if I were a violent man. I only have one daughter. If I did not want her to be with me, I would not have brought her here. I treat her well.

Dawit continues:

The case came up in the county board (fylkesnemda). I was in shock and totally confused. The conversations with the child welfare were bad. I had a very sore and aching feeling inside me. I was reported to the police and had no chance to speak freely and in a normal manner. We have a residence permit in this country because of bad treatment in our home country, but it is all being repeated here. I am committed to my religion. The state, both here and there, failed me and my people. I cannot trust the state anywhere, my family is ruined, my daughter is taken away, and I am left alone. My religion keeps me going. I set limits as to what Senait could do. The child welfare says I did wrong, I should not deny her the things she wants to do. I should have set her free.

Once every month a psychologist visits Dawit and Senait for six hours. At one point the psychologist asked to see a family picture. Dawit expressed deep sorrow when he realised that Senait did not recognise her grandmother in family photographs:

I wanted to cry. I was very sad. I was not happy that Senait had come to Norway, she should have stayed in our home country. If I had known that the child welfare would take her, she would have stayed home. It is me who is in jail now.

Dawit cries and cries.

> My family calls me all the time and asks how we are doing. Family must stay in contact. But I have to contact my lawyer if I want to talk with my daughter. The child welfare lady understands me and talks with me. When I meet my daughter, I can feel that she is happy. If not, she would not come to see me. My child is everything, I live for her. If something is important to her development, I will cooperate. We have come from a very beautiful country, but we did not have rights as human beings. We have these rights in Norway, but not in the child welfare. In our country family and parents take good care of children. When here in Norway, we are afraid to lose our children, lose our family, lose everything. What am I without my daughter, my family?

> The child welfare wants to know if I have beaten her. I cannot say yes, since I have not. There was a white man, a neighbour, he said that he had seen me beat Senait. We have a different religion, and he does not keep his family together. What is important to the child welfare? What do they take into account? I agree that children should not be beaten, it says so in the Bible. They should help children to be self-confident while they live with their family. I must be the interpreter when Senait speaks with her mother on the phone. Our love is still strong, but we do not live together. We live in different countries and different worlds.

Case 2. 'Maybe we should think outside the box. I have this gnawing feeling'

Tanja told me it was very exciting to work with people from other cultures, though also very demanding and difficult. She referred to the 'challenges of cultural differences', 'use of interpreters' and 'how different people think and speak very differently about things'. Also, she noted that in many of the cases she had worked on she realised the significance of an extended family, since it includes close family members and more distant kin of different generations, who live in the home country or a third country. She recognised the parents' concern that their children should understand and speak their mother tongue, learn traditional practices and rituals, and not engage in what is often phrased as 'Norwegian behaviour', such as digital playing and gaming, smoking, drinking, staying out late, and having a boy/girlfriend. She further explained: 'The extended family is very much part of the smaller family. They [the family in the child welfare] do not want the extended family to know that the child welfare is involved with their family'.

Tanja emphasised that 'here locally, also other people from the same ethnic group, are not to know about the contact with the child welfare. It brings shame and stigma on the family'. Tanja continued:

I am worried they [migrant minority families] do not understand me. I always need to double check with them, even then it is still hard to be sure. Working with minority families is much more demanding than working with Norwegian families. There are so many things to be considered and explained. We struggle to coach them on family life, parenting, and child needs. We focus on how to set limits, engage, and respond to their children, and how to stimulate and secure healthy child development. We know that in many families fear and violence is part of childrearing. In kindergarten, children tell about punching and beating by parents. Commonly the parents deny any use of violence. Shall we then pressure them for a confession? Or let the issue of violence rest and keep working with the family? Often, the parents withdraw from contact and shield themselves as far as possible. They are concerned about not worrying the extended family, and are anxious to sustain family relations. Sometimes, if they feel that the pressure from us is too hard, they send their children to their extended family in their country of origin or elsewhere.

It is very difficult to explain how we think and work in the child welfare. So much of our work is based on discretionary assessment, it is in our bodies. Our thoughts and assessments come spontaneously, often at once and automatically. We do what we have been taught is best for the child. Maybe we do not pick up on the actual strengths and resources in many of the immigrants since we are used to arguing and explaining in reference to normal Norwegian family life and child development. Maybe we should create a pause in each individual case, make room for creativity and difference, think outside the box. I often have this gnawing feeling.

They have another ethnic and cultural background, and their conceptual understanding is not sufficient, or one might say different. I am uncertain if they understand. I often guide visitations [visits when biological parents are granted time together with their child in foster care]. This is very demanding, as the parents often use the opportunity to tell their children about what they see as wrong, and expect them to do as they believe to be right and best. They want their children to behave, dress, speak their mother tongue, and think like themselves. They cry, and sometimes tell the children off. This is not a good way to use the visitation. Sometimes it works counter effectively and troubles the child. I really feel uncomfortable at times, a sense of inadequacy, not really knowing what to do, not knowing if they understand when I prepare them and guide the visitation. Many of my colleagues hesitate to take on minority cases, but I take them even though it makes me feel insecure and troubled. It makes me realise a lack of competence. At times it is really distressing. Sometimes, I wonder if we make things even worse, but our focus is on the individual child,

the best interest of the child. It is hard to explain, but it is exciting work. It keeps me alert. I am always learning something new. Makes me wonder. Though, I have this gnawing feeling that we sometimes work against the family, and are not really doing the best for the child.

A discomfort speaking of un-belonging and social injustice?

The above narratives show how both Dawit and Tanja, like my other research interlocutors, experience discomfort, uncertainty, and insecurity: such as Dawit's 'sore and aching feeling inside', 'sadness', 'loss of control', 'shock and confusion'; and Tanja's 'distress', 'worry', 'not knowing what to do', and a 'gnawing feeling'. While Dawit and Tanja inhabit distinct and asymmetric social positions, in which Tanja holds the stronger and more powerful position, I suggest they both – as also appears in other narrations of casework – experience a child welfare service that tends not to sufficiently pay attention to individual and group differences in social position and background, as well as feelings of distress and discomfort in both parties of the casework.

The child welfare workers are acknowledged as experts, and thus exert considerable influence in the practices and development of the welfare state, and by extension, gain power over the lives of families and children. Keeping in mind the thoughts and assessment management guiding childcare workers' practices, making and sustaining family and home are at stake here, and I suggest that a sense of discomfort and un-belonging is created among many migrant minority families since their views, narratives, and truths do not receive sufficient attention. Also, among the child welfare workers there appear to be strong feelings of insecurity and discomfort, to which I will return below.

Feelings of discomfort and un-belonging among migrant minority families are revealed in their narratives including experiences of ruptures in family relations (not only from the migration itself), children that detach themselves from family relations and bonds, and become alienated from the family's cultural background and mother tongue. Additionally, as Dawit and other families narrate, they experience not being heard and respected, and a loss of human rights and human worthiness. As Dawit states: '… we are afraid to lose our children, lose our family, lose everything'. Not only was Dawit's daughter removed from their home and family,

Dawit is moreover told that his daughter 'no longer likes African people, only white European people'. Dawit says he feels that he has lost all respect, even his daughter's respect.

Recognising how experiences of self and belonging are not necessarily foremost experiences of an autonomous and inner essence, but rather intersubjective experiences of relations with a significant other, I suggest that removing Senait from their shared home and family, and the loss of respect, cause Dawit to feel that he is 'losing everything', even himself. One may also question the effect of time on Senait's identity formation and sense of belonging, when placed in foster care in a majority family. Here she easily loses touch with her extended family, her family of origin's culture and traditional practices, and experiences a tendency to ambivalence and devaluation of these things.

Considering the casework processes, Dawit states that he experiences 'not being heard' and 'a loss of human rights'. When referring to the first meeting with the child welfare, in which the police were also present, Dawit speaks of being 'treated like a violent man'. He was reported to the police and 'had no chance to speak freely and in a normal manner'. The following meetings with the child welfare 'were bad', and left Dawit with a 'very sore and aching feeling inside'. When his case came up to the county board, Dawit was in a state of 'shock and totally confused'. As Dawit narrates his case and the hurt he experiences, he underlines his religious commitment. His faith is what 'keeps him going'. He agrees with the child welfare that 'children should not be beaten', and points out that this is in accordance with his religion and the Bible. Dawit points out that his neighbour, who testified that he had seen Dawit beat his daughter, has a different religion, and that the neighbour does not keep his family together. It seems here that the issues of 'different religion' and ability to 'keep family together' contribute to Dawit's questioning of 'what is important to the child welfare', and 'what do they take into account?' It becomes clear that Dawit struggles to understand the premises of the child welfare's assessment and intervention, and feels himself and his people to be discriminated against and worth less.

Turning to the case of Tanja, she also describes the child welfare work as provoking insecurity and feelings of discomfort. Tanja admits to 'challenges of cultural differences', and that 'different people think and speak very differently about things'. She also refers to several factors – such as language, traditional practices, significance of extended family, dislike of Norwegian behaviour, and stigma – which she understands to cause tension

and discomfort in her work. While recognising such issues as creating dif-
ficulties, Tanja, and also the other caseworkers, are left with a feeling of
insecurity in the relationship and communication. It seems that childcare
workers, as Tanja expresses, pick up on something that goes amiss. Tanja
says that she is uncertain if the family 'understands' her, and explains that
'their conceptual understanding is not sufficient, or one might say different'.
Whatever 'wrongfulness' or 'truth' there might be in what Tanja describes
in relation to migrant minority families' 'conceptual understanding', the
statement brings attention to a place or moment in the relationship and
communication that awakens in Tanja 'a sense of inadequacy, not really
knowing what to do, not knowing if they understand', while she also rec-
ognises her own 'lack of competence'.

Here one may ask, what kind of competence do Tanja and many child
welfare workers lack? What is it that Tanja refers to as 'competence'? Even
though Tanja has broad experience in working with migrant minority
families, and realises a need for cultural competence and sensitivity, Tanja
feels incompetent, insecure, and in discomfort. Tanja stresses that it is
'difficult to explain how we think', and says that 'thoughts and assessment
come spontaneously …. come automatically' based on what they as child
welfare workers are 'taught is best for the child'. Tanja questions if the
the child welfare workers pick up on the families' actual strengths and
resources, 'since we are used to arguing and explaining in reference to
normal Norwegian family life and child development'. Tanja's reflections
here can be seen to affirm the earlier reference to the child welfare service
that tends to do what the 'psy' disciplines construct, and distribute as a
universal and normal family and healthy child. However, Tanja takes a
step back, and suggests that childcare caseworkers should 'create a pause',
'make room for creativity and difference' and 'think outside the box', and
says she has this 'gnawing feeling'.

From this, I understand that Tanja and other childcare workers experi-
ence a 'gnawing feeling' and discomfort related to how the the child welfare
services may tend to ignore migrant minority families' social position and
background. Thus, they are inclined to employ the knowledge they are
taught and expected to operationalise in the the child welfare service. As
such, I suggest, that the child welfare runs the risk of contributing (unin-
tentionally) to social injustice, which in turn plays a role in the many child
welfare workers' experiences of discomfort in their practice. As a possi-
ble consequence, and as Tanja explains along with the other caseworkers,

the child welfare workers often seek to avoid working with migrant minority families.

Contemplating the two narratives, both of which show feelings of insecurity and discomfort in similar and different ways, I suggest such experiences may have a shared source in the experience of social injustice and its consequences. Acknowledging how the child welfare – in spite of the awareness of a need for a cultural-sensitive approach – may contribute to migrant minority families' loss of family intimacy, home attachments, and a sense of belonging. Holding that a sense of discomfort (Ahmed, 2014) comes from embodied practices and relations that connect intersubjective and sociomaterial dynamics, I propose to understand such feelings as producing boundaries between inside and outside. In this sense, the child welfare may be seen to 'automatically turn on' certain lines of making sense and decision-making, which respond to 'what is learnt to be in the child's best interest', while (unintentionally) discriminating against the migrant minority family as a group, and placing them outside what is understood as a 'normal family'. In this dynamic, it seems that the migrant minority family suffers from a sense of 'being in jail' and a 'loss of everything', while the child welfare caseworker suffers from 'a gnawing feeling'. In response to such suffering, many migrant minority families, such as Dawit, turn to religion and God to keep them going, and caseworkers tend to avoid the challenges of migrant minority families. Nonetheless, some caseworkers, such as Tanja, find that the challenges and discomfort 'keep her alert' and that she is 'always learning something new'. As it is the child welfare services' fundamental responsibility to stretch towards a practice that secures children's best interest in both minority and majority families, I see a need to pay attention to and explore the feelings of discomfort, because they may reveal un-belonging and social injustice. Exploring affects and feelings in the child welfare practice is thus proposed to be a fruitful guiding path for future the child welfare service, which may help to reduce migrant minority families' fear of their children being stolen, and rather enforce crucial capacities and senses of family, home and belonging, in the new place migrant minority families have come to stay.

Concluding remarks

By way of concluding, I recapture the chapter's aim to explore possible links between migrant minority families' fear that the child welfare might

steal their children, and how the child welfare reason and justify interventions. By looking into embodied knowledge and practices, as these are connected to feelings and affects, I propose a realisation that the child welfare creates a sense of discomfort stemming from an intersubjective and social dynamic, producing social injustice. While acknowledging the child welfare services' focus on cultural sensitivity and socioeconomic disadvantages, many migrant minority families still experience a deep sense of group discrimination, and losing rights and worth as human beings, which also reinforces a loss of trust in the state both 'here and there'. I suggest that turning towards a concern for affections and feelings can be a way forward to counter (unintended) discrimination and create a pathway to support migrant minority families' central experiences of family, home, and belonging. In so doing, chances for gaining migrant families' trust might increase, as well as enhancing the integrity of future the child welfare services.

Acknowledgment

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References

Ahmed, S. (2014). *The cultural politics of emotion*. Edinburgh University Press.

Andersland, G. K. (2022, May 15). Barnevernet står overfor en alvorlig systemsvikt [Child welfare is facing a serious system failure]. *Aftenposten*. https://www.aftenposten.no/meninger/kronikk/i/0G8wz2/barnevernet-staar-naa-overfor-en-alvorlig-systemsvikt

Berg, B., Paulsen, V., Midjo, T., Haugen, G. M. D., Garvik, M., & Tøssebro, J. (2017). *Myter og realiteter. Innvandreres møter med barnevernet* [Myths and realities. Immigrants' encounters with child welfare]. NTNU Samfunnsforskning.

Bourdieu, P. (1989). *Outline of a theory of practice*. Cambridge University Press.

Bragdø-Ellenes, S. C., & Torjesen, S. (2020). Diplomatisk hodebry: Internasjonale reaksjoner på utvalgte avgjørelser i norsk barnevern [Diplomatic headaches: International responses to selected decisions in Norwegian child welfare]. *Internasjonal Politikk, 78*(1), 1–31. https://doi.org/10.23865/intpol.v78.1069

Brighouse, H., & Swift, A. (2014). *Family values: The ethics of parent-child relationships*. Princeton University Press.

Browne, J. (2023). The political implication of the 'untraceability' of structural injustice. *Contemporary Political Theory*. https://doi.org/10.1057/s41296-023-00634-4

Bø, B. P., Rasmussen, M., & Aannestad, N. (2004). *Innvandrerungdom på barnevernsinstitusjoner* [Immigrant youth in child welfare institutions] (HiO-rapport nr. 19.). Høgskolen i Oslo.

Bø, B. P. (2010). Det flerkulturelle barnevernsarbeidet: Utfordringer, erfaringer og kompetansebehov [The multicultural child welfare work: Challenges, experiences and competence needs]. In M. S. Kaya, A. Høgmo & H. Fauske (Eds.), *Integrasjon og mangfold: Utfordringer for sosialarbeideren* (pp. 206–232). Cappelen Damm Akademisk.

Chadwick, R. (2021). On the politics of discomfort. *Feminist Theory, 22*(4), 556–574. https://doi.org/10.1177/1464700120987379

Eide, K., Rugkåsa, M., & Ylvisaker, S. (2015). Omsorg for andres(s) barn: Barnevern, profesjon og integrering [Caring for other people's children: Child welfare, profession and integration]. *Fontene Forsking, 1*(8), 60–71.

Finch, J. (2007). Displaying families. *Sociology, 41*(1), 65–81. https://doi.org/10.1177/0038038507072284

Fylkesnes, M. K., Iversen, A. C., Bjørknes, R., & Nygren, L. (2015). Frykten for barnevernet: En undersøkelse av etniske minoritetsforeldres oppfatninger [The fear of child welfare services: A study of the perceptions of ethnic minority parents]. *Tidsskriftet Norges Barnevern, 92*(2), 81–96. https://doi.org/10.18261/ISSN1891-1838-2015-02-02

Fuglerud, Ø., & Eriksen, T. H. (2007). *Grenser for kultur? Perspektiver fra norsk minoritetsforskning* [Limits to culture? Perspectives from Norwegian minority research]. Pax Forlag.

Hemmings, C. (2012). Affective solidarity: Feminist reflexivity and political transformations. *Feminist Theory, 13*(2), 147–161. https://doi.org/10.1177/1464700112442643

Holte, E. A. (2021, July 2) Unngår å søke hjelp i frykt for barnevernet [Avoids seeking help for fear of child welfare services]. *Utrop*. https://www.utrop.no/nyheter/nytt/266493/

Ipsos. (2017). *Tillit til barnevernet blant personer med innvandrerbakgrunn* [Trust in child welfare services among individuals with immigrant backgrounds] (Report for The Norwegian Directorate for Children, Youth and Family Affairs (Bufdir)). https://bibliotek.bufdir.no/BUF/101/Tillit_til_barnevernet_blant_personer_med_innvandrerbakgrunn.pdf

Jackson, M. (1989). *Paths toward a clearing: Radical empiricism and ethnographic inquiry.* Indiana University Press.

Kalve, T., & Dyrhaug, T. (2011). *Barn og unge med innvandrerbakgrunn i barnevernet 2009* [Children and young people with immigrant background in child welfare 2009] (Rapport 39/2011). Statistisk Sentralbyrå. https://www.ssb.no/a/publikasjoner/pdf/rapp_201139/rapp_201139.pdf

Liden, H., Bredal, A., & Reisel, L. (2014). *Transnasjonal oppvekst. Om lengre utenlandsopphold blant barn og unge med innvandrerbakgrunn* [Transnational upbringing. About longer stays abroad among children and young people with immigrant background] (Rapport 2014:5). Institutt for samfunnsforskning.

Norwegian Immigrant Forum. (2013). *Flerkulturelt barnevern? Hvordan fremme dialog mellom barnevernet og etniske minoriteter* [Multicultural child welfare? How to promote dialogue between child welfare services and ethnic minorities]. Norsk Innvandrerforum.

Olsen, T. (2018a, February 5). Politiet om koranskoler i utlandet: Barnevernet utløser bortsending av barn [The police about Quran schools abroad: Child welfare authorities trigger deportation of children in dialogue between child welfare services and ethnic minorities]. *Aftenposten.* https://www.aftenposten.no/norge/i/ka3xGa/politiet-om-koranskoler-i-utlandet-barnevernet-utloeser-bortsending-av-barn

Olsen, T. (2018b, February 10). Somaliske foreldre er livredde barnevernet. De utnytter barn for å få fri tøyler [Somali parents are terrified of child welfare services. They exploit children to get free rein]. *Aftenposten.* https://www.aftenposten.no/norge/i/A2dalE/somaliske-foreldre-er-livredde-for-det-norske-barnevernet-det-utnytter-barn-for-aa-faa-frie-toeyler

Oslo Economics. (2019). *Kommunens erfaringer med barn og unge som etterlates i utlandet mot sin vilje* [The municipality's experiences with children and young people who are left abroad against their will] (Report for Ministry of Education and Research, November 2019).

Paulsen, V., Thorshaug, K., & Berg, B. (2014). *Møter mellom innvandrere og barnevernet. Kunnskapsstatus* [Meetings between immigrants and child welfare services. Knowledge status]. NTNU Samfunnsforskning.

Qureshi, N. A. (2009). Kultursensitivitet i profesjonell yrkesutøvelse [Cultural sensitivity in professional practice]. In K. Eide, N. A. Qureshi & H. Vike (Eds.), *Over profesjonelle barriere: Et minoritetsperspektiv på sosialt arbeid med barn og unge* (pp. 206–228). Gyldendal Akademisk.

Roopnarine, J. L., & Gielen, U. P. (2005). *Families in global perspectives.* Pearson/Allyn and Bacon.

Rugkåsa, M. (2008). Majoriteten som premissleverandør i 'flerkulturelt' arbeid [The majority as premise provider in 'multicultural work']. In A. M. Otterstad (Ed.), *Profesjonsutøvelse og kulturelt mangfold: Fra utsikt til innsikt* (pp. 78–95). Universitetsforlaget.

Seeberg, M. L., Bagge, C., & Enger, T. A. (2009). No Place: Small children in Norwegian asylum-seeker reception centers. *Childhood*, *16*(3), 395–411. https://doi.org/10.1177%2F0907568209335318

Seymore, J., & Walsh. J. (2013). Displaying families, migrant families and community connectedness: The application of an emerging concept in family life. *Journal of Comparative Family Studies*, *44*(6), 689–698.

Skotheim, H. (2020). Norsk barnevern er uglesett i østblokklandene: Den verste myten er at Norge kidnapper barn [Norwegian child welfare services is frowned upon in the Eastern Bloc countries: The worst myth is that Norway kidnaps children] [Interview with Hans-Jørgen Wallin-Weihe]. *Fri Fagbevegelse.*

Skytte, M. (2006). Fosterbarn med etnisk minoritetsbakgrunn [Foster children with ethnic minority background]. Norsk Fosterhjemsforening, temahefte nr. 19.

Stacey, J. (2011). *Unhitched: Love, marriage and family values from west Hollywood to western China.* New York University Press.

Stokke, O. (2013, December 28). Innvandrere frykter barnevernet [Immigrants fear child welfare services]. *Aftenposten*. https://www.aftenposten.no/norge/i/kao4k/innvandrere-frykter-barnevernet

Strasser, E., Kraler, A., Bounour, S., & Bilger, A. (2009). Doing family: Responses to the construction of 'the migrant family' across Europe. *The History of Family*, *14*(2), 165–176. https://doi.org/10.1016/j.hisfam.2009.02.005

Söderström, S. (2012). Kultursensitiv informasjon. Om å søke etter ordenes intensjon og mening [Culturally sensitive information. About searching for the intention and meaning of words]. In B. Berg & T. Ask (Eds.), *Innvandring og funksjonshemming* (pp. 129–150). Universitetsforlaget.

Vike, H., & Eide, K. (2009). Kulturanalyse, minoritetsperspektiv og psykososialt arbeid [Cultural analysis, minority perspective and psychosocial work]. In K. Eide, N. A. Qureshi, M. Rugkåsa & H. Vike (Eds.), *Over profesjonelle barrierer. Et minoritetsperspektiv i psykososialt arbeid med barn og unge* (pp. 13–35). Gyldendal Akademisk.

Weihe, H. J. W. (2016, April 19). Norsk barnevern sett fra kontinentet [Norwegian child welfare seen from the continent]. *Dagen*, p. 3.

Ålund, A. (1997). *Multikultiungdom: Kön, etnicitet, identitet* [Multiculti youth: Gender, ethnicity, identity]. Studentlitteratur.

Aarset, M. F., & Bredal, A. (2018). *Omsorgsovertakelser og etniske minoriteter. En gjennomgang av saker i fylkesnemda* [Care takeover and ethnic minorities. A review of cases in the County Council] (NOVA-Rapport 5/2018). OsloMet. https://hdl.handle.net/20.500.12199/3500

CHAPTER 4

Inclusion of Children and Youth in Foster Families: Aims, Challenges and Solutions

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Abstract: This chapter addresses aims and challenges in the processes of including children and youth in foster families and suggests a solution inspired by anthropological literature. I argue that the 'best interests of the child' are closely tied to staying in a stable foster home, which emerged in interviews with children in the Norwegian Child Welfare Services (CWS) and foster parents. I introduce anthropological approaches to kinship to discuss how successful foster care may be challenged by the cultural dominance of the biological principle as enshrined in the best interests of the child in both the Children Act (1981, amended 1997) and the Adoption Act (2017, amended 2022). It is suggested that reduced emphasis on biology and increased focus on sociality and attachment quality may increase the success of inclusion, or *kinning,* of children and youth in foster families. This resonates with developments in biomedicine and biotechnology, which inspire new ways of thinking about kinship and family that could result in a reconstruction of family and kinship, for instance inspired by anthropological literature.

Keywords: the best interests of the child, the biological principle, children, foster care, inclusion

Introduction

> Blood Is Thicker Than Water is not only axiomatic in studies of kinship, it is a fundamental axiom of European culture. Even if this axiom were true as a biological fact, even if the most extensive scientifically acquired evidence showed it to be true … the point remains that culture, even were it to do no more than recognise biological facts, still adds something to those facts. The problem remains of just what the socio-cultural aspects are, of what meaning is added, of where and how that meaning, as a meaning rather than as a biological fact, articulates with other meanings …
>
> (Schneider, 1984)

This extract, from one of the most influential anthropologists of kinship, David Schneider, points to how the anthropological study of kinship, meaning a network of social relationships that usually, but not always, includes biological ties in one way or other (Schackt, 2017, p. 17), reveals how cultural meaning 'adds something' to biological facts. Schneider's text introduces the theme in this chapter: namely how the relationship between nature and culture, of kinship as a biological fact and/or a social construction, affects the way foster children and foster parents understand 'family' and experience inclusion in their foster family. Kinship relations often overlap with family relations, and I speak of family and kin interchangeably. This is in line with Alber et al. who argue that the distinction is 'obsolete' (2010, p. 46). They, together with Smart (2007), view a 'kinship system' as a dynamic, not a static phenomenon; as a system capable of change. This is also the position taken in this chapter, which suggests how alternative views of kinship and family, that is, a change, may ease inclusion of children and youth[1] in foster families.

The overarching frame for my discussion is the principle of the best interests of the child. Where children under the care of the Child Welfare Services (CWS) live should be a result of decisions made in the best interests of the child, as stated in the Children Act (1981, amended 1997) and

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1   'Children and youth' and 'young people' are used interchangeably in this chapter.

Section 1(3) in the Child Welfare Act (2021, amended 2023). The most common decisions in Norway place children unable to live with biological parents in foster homes or in institutions, of which foster homes are usually tried before institutions. However, how a Norwegian CWS institution works is contextual; it may vary from office to office (CWS office), from municipality to municipality and from county to county.[2] I will discuss the themes of kinship and family and how these are represented in the Norwegian CWS and, in particular, in the institution of foster care, generally speaking. The backdrop is the assumption that during the last thirty years or so there has been an increased emphasis on the 'biological principle' for children's belonging and identity construction, in that it is understood to be in the best interests of the child to respect biological roots in all matters that concern the child's well-being (Jørgensen, 2001; Howell, 2006; Official Norwegian Report, 2012, 2023; Bunkholdt, 2017; Johnsen, 2019). I will discuss the implications of this emphasis on how children in foster care and foster parents may experience the child's inclusion in the new family. Another overarching theme is thus how the significance of *biological* family challenges the inclusion process in foster families.

According to Signe Howell, the ideal of a good personal life in Norway can be expressed as 'family life made up by mother, father, two or three children, surrounded by grandparents, uncles and aunts and seems to be what most young adults envisage. Such lived relatedness constitutes normality' (Howell, 2006, p. 65). Years have passed since Howell wrote this, which probably have broadened many Norwegians' ideas of 'normality', as many families today may consist of two fathers, two mothers, a single parent, etc. The cultural meaning of 'family' is contextual and dynamic, as is 'kinship', and the two terms overlap. There are, however, reasons to believe that biological ties, or imitations thereof (adoptees), are still at the core of Norwegian family structures. In the following I therefore address these questions:

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2   Most often, it is the municipality (*kommune*) that administers foster families. However, there also exist foster families that are administered by the central government, which cooperates with the municipality in these matters. There are some variations regarding payments and other arrangements between foster families organised by the central government and the municipality, but I do not believe that the nuances have vital implications for the arguments in this chapter.

–   How is the idea of the best interests of the child represented in foster care, as tied to inclusion in families?
–   In what ways is inclusion of children in foster families challenged by the biological principle, that is, implications of the saying 'blood is thicker than water'?
–   How can biomedical/biotechnological development combined with anthropological literature inspire a reconstruction of kinship and family in Norway?

The empirical points of departure for my discussions are twofold. Firstly, I have interviewed young people who have personal experience with the CWS. They have been or still are registered in the CWS system. Some have been registered in the CWS from the time of birth, which indicates that their experience of 'family' probably differs from children growing up in a biological family. Secondly, interviews with foster parents also make up the data material. The intention of the interviews was presented to both groups as an exploration of how they understood decisions made by the CWS and their experiences of the principle of the best interests of the child, with particular focus on how they viewed foster homes as family. Anthropological literature also informs my discussions (Marshall, 1977; Schneider, 1984; Meigs, 1987; Jørgensen, 2001; Howell & Melhuus, 2001; Howell, 2006; Alber et al., 2010; Schackt, 2017; Johnsen, 2019) and research on foster care (Bunkholdt, 2017; Children Act 1981, amended 1997; Official Norwegian Report, 2012; Nordby & Halsa, 2020).

Background

In Norway, it is usually the municipal CWS that organises foster care. The foster family is advised by the CWS to aim to include the foster child as if it was their biological child, which is also the aim of adoptive parents. The aim of inclusion of an adopted child and a foster child in a new family has obvious similarities but also significant differences. One main difference is that the foster parents are per definition only temporary parents. It is particularly emphasised in the new Child Welfare Act (2023) that reunion with the biological family is an overarching aim (Official Norwegian Report, 2023, Section 3.3.1). This is obviously not the case in an adopted family. This emphasis in the new Child Welfare Act (2023) also indicates how the importance of biological roots has

been reinforced over recent years. A second main difference is that foster parents are paid for their work while the parents of an adopted child do not receive this type of funding. A third main difference is that foster parents are not judicial parents – the biological parents are. This signifies the formal similarity of adopted and biological children, in contrast to foster children. A fourth difference is the labels used for family members, where adoptees use the same labels as a biological family, while foster children do not do this automatically but may end up doing so, as I will return to in later sections.

The main similarity between an adopted family and a foster family is that the new family aims to include the child in their family, as an equal member of the family/household. The adoptive parents do this as if it was their biological child, while this, although an aim, is not so straightforward in a foster family because it is uncertain how long the child will stay. It appears as if it is the biological family that is the model for how foster parents aim to include a foster child. How this inclusion takes place in a foster family depends upon two other factors: the age of the child and the kind of judicial decision that underlies taking the child into foster care. Regarding the first, according to an interviewed foster father (see the Methodology section) the younger the child, the easier it is to try and include it as if it was their biological child. Regarding the second, children may be taken into foster care in agreement with the biological parents (Child Welfare Act, 2023, Section 3) or by force (Section 6(2)). In both cases, the vital difference between an adoptee and a foster child is that the latter may be moved from the foster family if the cohabitation arrangement doesn't work or if the biological family becomes capable of taking care of the child themselves. This implies that the inclusion process is more fragile, vulnerable, difficult and challenging in a foster family compared to an adoptive family, which resembles a biological family in every respect except for the biological tie. However, according to Vigdis Bunkholdt (2017) and a foster father I interviewed, the level of conflict during a change of residence is lower when this is carried out in agreement with the biological parents. In some of these cases it appears easier for the child to become attached to the foster parents because the pressure of loyalty to the biological parents is lower. On the other hand, a hindrance to attachment is the lack of security regarding how long the child will stay in the foster family (Bunkholdt, 2017, p. 21). In sum, many variables are thus relevant in discussion of how foster children are included in a new family.

According to Howell, 'biocentrism' (referring first and foremost to biological roots and genes) in discourses about personhood and identity has increased during the last three decades, due to, among other things, knowledge developed in biomedicine (Jørgensen, 2001; Howell & Melhuus, 2001; Howell, 2006). It is not unreasonable to assume that this may have made it harder for some foster children to feel included in the family and feel 'normal', which is something foster children wish for (according to my informants, see later sections). Discussions on biological origin in discourses on identity have resulted in an increased focus on children's early upbringing and psychological experiences (Howell, 2006; Johnsen, 2019). In line with this, the Norwegian CWS has shifted its focus from children's behavioural problems to an awareness of traumas and an interest in both adoptees' and foster children's 'backpacks' (my informants; Howell, 2004; Johnsen, 2019). This shift of focus illustrates the increased attention given to biological/psychological dimensions and reflects the central position of biocentrism (Howell, 2006).[3] This situation was part of the reason why the Norwegian Government appointed an expert committee to investigate how better protection of children may be secured in decisions by the CWS, given the strong position of the biological principle (Official Norwegian Report, 2012). This committee, led by Magne Raundalen, introduced an alternative to the biological principle, based on attachment theory. They called this alternative 'the development-supported attachment principle' (*det utviklingsstøttende tilknytningsprinsipp).* In short, this emphasised the importance of emotional attachment between the child and the caregivers irrespective of biological ties. The committee concluded that awareness of the quality of attachment should be prioritised over biological kinship in decisions by the CWS. Their advice was not included in new legislation (see below), quite the contrary, because of biological parents' increased judicial rights all over Europe. The European Court of Human Rights (ECtHR) put biological parents and biological family relationships at the forefront, which formed the basis of strong criticism from the ECtHR towards decisions made by the Norwegian CWS.[4]

3   In this chapter I concentrate on the biological dimensions only.
4   https://www.oslomet.no/forskning/forskningsnyheter/har-norsk-barnevern-ufortjent-darlig-rykte

The best interests of the child and the biological principle

The work of the Norwegian CWS, which also includes foster care as mentioned above, is based on six basic principles:

– The least intrusive intervention
– The principle of development support
– The principle of legality
– The best interests of the child
– The biological principle
  (Bunkholdt, 2017, p. 19).

All but the second principle are incorporated in the Norwegian legal system. As mentioned above, 'the development-supported attachment principle' did not get enough political support. I will implicitly return to the psychological principle but will first focus on the last two principles, which today are highly intertwined in CWS decisions, as indicated above. In Norway, the *principle of the best interests of the child* was enshrined in the Child Welfare Act and the Children Act (1981, 1997), in line with Norway's ratification of the UN Convention on the Rights of the Child (1989) in 1991 (Bunkholdt, 2017, p. 43). The new Child Welfare Act (2023, section 1(3)) states the best interests of the child thus:

The best interests of the child must be a fundamental consideration in connection with all actions and decisions that affect and concern children. Measures imposed by the Child Welfare Service must be in the best interests of the child. What is in the best interests of the child must be decided on the basis of a specific assessment of the individual case. The child's opinion is a key factor in the assessment of the child's best interests.

The principle is normative and ambiguous in that it is not obvious what is in the best interests of a child at a particular moment (Bunkholdt, 2017; Rysst, 2020). The biological parents, a CWS professional, the foster parents and the child itself may disagree on the best interests of a particular child at a particular moment.

In current discussions in the CWS on the best interests of the child, the biological principle plays an important part in that awareness of biological parents and biological roots are taken into consideration in evaluation of the child's best interests. However, this has not always been the case.

The development is reflected in the 1997 amendment of the Children Act (1981), as mentioned above, which, according to Tone Jørgensen, reflects a 'biologization' of this law (Jørgensen, 2001, p. 130). The present Children Act underlines the importance of biology or 'the biological principle' (Jørgensen, 2001; Bunkholdt, 2017). According to Jørgensen (2001), this started to happen because of the general development of gender equality and equity in Norway, giving biological fathers a higher status in the 1997 amendment of the Act than in the previous version. In addition, the developments in biomedicine and thus assisted reproduction have made it easier (20 for lesbians and homosexuals to become parents.

A similar development appears in the latest Adoption Act from 2017. From regarding an adoptee as 'a naked child', the focus has moved to biological roots and the child's early experiences before the adoption (Johnsen, 2019). This emphasis on biology was not present in the previous Adoption Act of 1986. This Act reflects how knowledge about biological origin is believed to be important for the identity of adoptees (Johnsen, 2019). In her MA thesis in anthropology on Korean adoptees' experiences of belonging and identity formation in Norway, Emma Laier Johnsen shows how these adoptees are ambivalent to the increased emphasis on biology. In their opinion, their kinsmen are their adoptive families, not the ones in Korea, and most of them are not interested in having contact with their Korean origins. It appears that many feel it is unnecessary and troublesome that they must relate to their biological roots. Johnsen also shows how the development of the adoption acts reflects how our society highlights biology in understanding identity and personhood today (Johnsen, 2019).

This increasing interest in biological roots appears to be connected to societies in the western hemisphere in particular. For instance, anthropological literature from all over the world shows variations concerning which people are categorised as 'kin', which may go beyond biological and marital ties. According to Marshall, sharing and sociality, in general, are more common in definitions of kinship worldwide than shared biological substance, such as genes (Marshall, 1977). Howell's study (2001) on the return of adoptees from Korea is one illustration of this. Howell interviewed Koreans about adoption and was told that Korean parents and relatives did not have much interest in meeting their biological child. Once the child had been given away and had been absent from their family, that child did not belong to their family anymore. In the Korean way of thinking, this is because biological ties that are not nurtured by continuous, binding social

activity, fade in importance over time. In other words, kinship in Korea is based more on sociality than biological ties (Howell & Melhuus, 2001). Based on this information and knowledge about the worldwide variation in definitions of kinship, Howell constructed the concept of *kinning*, which means 'the process by which a foetus or new-born child (or a previously unconnected person) is brought into a significant and permanent relationship with a group of people that is expressed in a kin idiom' (Howell, 2006, p. 63). The child can also be an older baby or older child, as in adoption processes. One significant criterion for successful *kinning* is that kin idioms, or labels, such as mother, father, son, daughter, brother, sister, are used among those living together. Howell's work is on adoptees and their families, where the adopted child enters *kinning* processes from the day the parents meet their baby and it arrives in the new family. *Kinning* refers first and foremost to everyday interactions between people living together. I find the concept of *kinning* interesting for analysis of inclusion of children in foster families, as the concept goes beyond just 'inclusion'. It also denotes a significant and permanent relationship 'with a group of people that is expressed in a kin idiom' (Howell, 2006, p. 63). That is, the aim is to include the child *as if* it was their biological child. I will use the concept to shed light on the processes that take place when children are placed in foster families by the CWS.

Methodology

The research design of the study from which data for this chapter is drawn is qualitative and based on the anthropological tradition of ethnographic interviews (Madden, 2010). The study is a small sub-project in a larger, international project entitled *Decisions and Justification in Child Protection Services,* financed by the Research Council of Norway.[5] The aim of this sub-project was to bring forth narratives on the best interests of the child, from the young people themselves and foster parents. The interviews are informal conversations structured around certain themes. This means that the study consists of discursive data, that is, data on what people *say*, and

5   The project description states: At the core of the project lies the principle of the Best Interests of the Child (BIC) as expressed in the Convention on the Rights of the Child (CRC) and the UN Child Committee's general remark no. 14 (2013) in which the BIC is described as a threefold concept: 1) a substantive right, 2) a fundamental, interpretative legal principle, and 3) a rule of procedure. See https://app.cristin.no/projects/show.jsf?id=2493859

in particular what people *say* they *do*, and not data on interactions and actual practices. The data were collected in 2020 and 2021.

Eight group interviews were conducted with a total of 16 young people (16–20 years of age), three boys and 13 girls, who are part of an ideal institution called *Forandringsfabrikken* (FF) ('Factory of Change'). These youth have the title 'barnevernsproff' ('CWS professionals') and their work consists of travelling around Norway talking to children and youth about their experiences of the CWS and encouraging them to tell their stories. They have been given this title because of their own experiences with the CWS. FF have published many reports which convey the experiences of CWS youth. I contacted FF for informants because I knew I would find many young people with CWS experience there.[6] As such, I have interpreted what the FF youth told me with an extra critical eye: what is their personal opinion and what are the FF's views? When I contacted a consultant in FF and asked for the possibility to interview a small group of young people, she was positive, but underlined that the youth probably did not want to talk about their own personal experiences, but would rather express the voice of the FF. However, every now and again, a personal opinion broke through and in this chapter I have only included utterances revealing their personal experiences, selected from where they used words such as 'I' or 'me'. This became even more important because a couple of months after the interviews were carried out, the FF was publicly criticised for influencing young people's views about the CWS system too much.[7] However, I understood them as quite outspoken about their own experiences and it never crossed my mind that these opinions were not their personal views. The interviews were conducted without any leaders present and I convinced the youth that nobody but myself should listen to the interviews.

The interviews all centred around the question, 'How do you understand what is meant by the principle of the best interests of the child?' as an introduction. From there, other themes emerged that were more explicitly related to my research questions. I asked questions such as 'If you want, you can tell how this principle worked in your life with the CWS' and 'What is family to you?'; 'Do you have any contact with your biological family?';

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6   I also contacted *Landsforeningen for barnevernsbarn* for recruitment, but that was beyond their capacity.
7   These links present some of the criticisms: https://khrono.no/droppar-samarbeid-med-forandringsfab-rikken/714896. https://www2.bufdir.no/globalassets/global/nbbf/barnevern/ekstern_undersokelse_av_forandringsfabrikken_oppdatert.pdf

'Do you think the CWS satisfactorily considers and arranges meetings with your biological family, if that is want you want?'

In addition to the eight interviews with the young people, I interviewed 12 foster parents, three fathers on their own, eight mothers alone and one heterosexual couple. One mother was divorced and single, and one father was married to a man. The families live in various parts of eastern Norway and were recruited through friends, colleagues, *Norsk Fosterhjemsforening*[8] and the snowball method. Many of these parents were experienced as foster parents and had nurtured many children. All but one family were foster parents at the time of the interview. Most importantly, they were very competent about the foster care institution. As such, their knowledge and experiences have informed my discussions to a large extent. Two interviews were conducted via Zoom, while the rest were either carried out in the informants' homes (3), at my office (4), at a café (1) or at the informants' offices (2).

The project was approved by the Norwegian Centre for Research Data (NSD) and a user profile was set up in *Tjenester for Sensitive Data* ('Services for sensitive data') at the University of Oslo. This means that the data recorded were sent directly to this profile, where they are stored and inaccessible to all but me. All names and places have been anonymised so that it is not possible to trace anyone's identity.

All the interviews lasted for about one hour and were transcribed by me. The data have been analysed through simple thematic data analysis: a manual search for answers to questions about a specific theme. The subheadings in italics below are concepts and expressions used by both children and foster parents; in other words, they are experience-near expressions.

Results with discussion: aims and challenges

Feeling safe (trygghet, å føle seg trygg)

The theme of safety was the most frequent theme that emerged among the youth when I asked about their opinion on *the best interests of the child*. Safety is also an overarching aim of the CWS in all matters. It was vital, one girl said, for the child to feel safe, otherwise she would not tell anything to CWS professionals. The informants spoke primarily on children's

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8   https://www.fosterhjemsforening.no/

situations regarding family matters, where the significance of care or lack thereof from biological family and other caregivers had pivotal focus. Children and youth are often very loyal to biological family, even in cases of violence and sexual abuse, which may make it difficult for professionals to grasp the factual situation in homes. A home is usually the safest place to live, a situation that had been violated many times for the children interviewed. Carol Smart applies the expression 'the haunting power of blood relationships' (2007) to describe how these relationships can be destructive and binding, which Astrid Halsa also understands to exist in young people's narratives of a traumatic childhood (see Halsa' s chapter in this book).

The CWS is, in general, aware of the importance of creating a safe atmosphere in order to get correct information from the children. The youth said that creating a safe atmosphere was easier with time and frequent meetings but could also be established if the CWS person had a certain personality. 'The adult person must have a warm smile and warm eyes, and be kind,' one girl said. It emerged that often the atmosphere of safety was not there and that vital information on the child's situation was not told. However, when it concerns the issue of feeling safe, all the interviewed children agreed on the importance of safety. They also shared the view that many children did not tell the CWS their worst experiences, because it was too risky. The expression 'feeling safe' may be understood as an overarching theme of concern in all aspects of their lives: in their original home, their foster home, institution, school, leisure activities and peer group. In other words, feeling safe may be understood as a vital dimension in the conceptualisation of the best interests of the child regarding inclusion in new families and thus foster care in general.

The topic of feeling safe was also an aim among the foster parents, who have been trained by the Norwegian Directorate of Children, Youth and Family Affairs (*Bufdir*). Foster parents are trained by the CWS in introductory courses which emphasise that creating a safe atmosphere in the home is very important. According to this course, in order to establish a lasting foster home, the feeling of safety comes first. Therefore, foster parents and foster siblings work hard on this aim from the day the child crosses their doorstep. To make the foster child feel included and welcome is paramount from the very beginning. As such, the *kinning* process starts immediately in order to create the feeling of safety. Many foster parents also quit their jobs and stay at home in order to establish the feeling of safety for the child.

In many cases, the CWS expects the parents to stay at home because it is considered in the best interests of the child to have continuous care. Among the interviewed foster parents, three fathers had quit their jobs and stayed at home full-time.

Taking on a foster child also appeared to be a family project. One single foster mother with biological sons said that it was a family project to include and make the foster child feel safe as a sibling from the day he arrived. In other words, as already mentioned, the *kinning* process usually starts as soon as the foster child moves in. Implied in the *kinning* process is the assumption that the normal biological family, being the model of the foster family, is associated with being and feeling safe. All the foster parents expressed an ambition to include foster children on equal terms with their biological children, which I understand as *kinning* per se. The foster parents often spoke of good or bad matches between themselves and the foster child and explained that the CWS aimed to find good matches between foster family and child. The children themselves were not focused on biological roots in their talk of feeling safe, which may indicate how that theme may disturb the *kinning* process. They never brought up biological parents as a source of safety, or someone they wanted to see more of.

Listening to children (youth) (å lytte til barn/unge)

All the children said that it was hardly possible to follow the idea of the best interests of the child without talking and listening to the children. As one girl said, 'That they can make a "best interests of the child" decision without listening to my opinions is very strange. "How can you know what is best for me without listening to me?" kind of.'

In general, the FF informants had the opinion that the CWS did not satisfy the criterion of working according to the best interests of the child. Many had very bad experiences, like this girl, on being moved from a foster home to an institution:

> It (the best interests of the child) sounds very good, because, like, it is a smart thing, it is obvious that it is good, but it has not been in my best interests, because *I* know what my best interests are. But then the CWS has done something stupid, really, and said it is in my best interests, and how can you write something like this (in her CWS record), when it actually has made my life much worse.

The children said that they did not believe the CWS followed the best inter-ests of the child when children frequently had to move to a new family or to an institution. Some of the children had been cared for by the CWS since their birth and had lived in many families. They said it was a good thing to be moved if the children themselves wanted this, for instance when the foster family did not feel safe or was full of conflict. However, in general, the children wanted to stay permanently in one family, and in a foster family, not an institution. This is probably because living in a family is the norm for children, not institutions (see section below). They said they were moved because the foster family could not handle them, they were viewed as being, as they expressed it, 'too mentally sick' and 'too dangerous' to stay on. Many of the youth I interviewed said they had been moved from foster families and into institutions because the CWS regarded them as too mentally unbalanced to live in families. In these cases, the informants said they had not been asked about their opinion on moving. One girl said this:

> No, I was in fact not asked about my opinion on moving. It was only decided that this was the best for me, I 'cannot live with other young people, I am too sick, I am too dangerous, I can … It will not work'.

Another girl in the same interview followed up by saying:

> It really is like this, that when you are said to be 'dangerous', then you are not asked for your opinion, they just decide, and say it is in the child's best interests. But then the child has not been listened to.

For the foster family, it is challenging to succeed in *kinning* children when the possibility of integrating them into their kinship network may be tem-porary. However, in the interviews with the foster parents it emerges that they try to do this from the start. This includes listening to them regard-ing preferences for things like food and clothes, but also which name they prefer in addressing the foster parents: first names, mum, dad and the like, to be discussed below. It also struck me how the CWS expected contact with biological parents to be bothersome, not the contrary.

Being 'normal' (å være normal)

The general opinion arose among the youth that the label 'foster child' did not give peers positive associations, quite the contrary. It was their view

that associations such as 'demon children', 'dangerous children' or being 'too mentally unbalanced' to live in normal families emerged.[9] One girl said this:

> I personally had to move from one school to another several times, and I nearly made an end of it all, really. Because when the other children became aware of me being a foster child, it was 'over' (*løpet kjørt*) for me. Then the harassment started, physical and psychological violence … and, just because I was a foster child, they didn't know the reason why I was a foster child, they didn't know the reasons why I was moved, whose fault it was, they just thought 'she lives in a foster home, then she must be a demon child (*djevelunge*).'

The fear of being stigmatised and bullied made many of the children, when meeting new people, talk about their foster parents as 'mum' and 'dad', in order to avoid further questions on family matters. This fact underlines the significance and 'normality' of biological family in our society. The young people interviewed said they just wanted to be 'normal', like the others in their school class, with a mum and dad. In my opinion, this illustrates how the cultural norm of biological family challenges the *kinning* process, because foster children will never achieve biological relatedness to their foster family, and thus, not be easily able to use kin idioms to address foster family members.

The issue of 'normality' may also be understood to emerge from the interviews with the foster parents. The following was a common response from many of them, as this mother said, 'There are episodes when he calls me "his mum", because then he doesn't have to explain things.' And the father of a 15-year-old foster child who has lived with them for seven years, said this:

> She has begun to call us 'mother' and 'father', not to us, but to friends and outsiders, at school, because she feels so uncomfortable talking about her biological mother, telling about everything surrounding that. She also terms her older foster siblings as 'brother' and 'sister' to outsiders.

These efforts by the children to try and 'hide' the fact that they are not living with their biological family underlines the cultural meaning of 'normal'

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9   It is interesting that peers did not accuse the foster children's parents of doing a bad job, but the children themselves. This suggests that schools ought to inform students about social problems writ large.

families consisting of biological parents and their offspring. As Howell argues, the normal Norwegian family consists of parents and biological children (Howell, 2006, p. 65) and, as my informants indicated, deviations from this pattern often trigger questions from outsiders even today. According to the foster parents, the foster children in their families often experienced this and tried to avoid awkward situations by using 'biological' terms for foster kin.

Many of the young people told of difficulties with feeling socially integrated in their peer culture, and of difficulties in general in regard to relationships. The foster parents often also had stories about foster children having a hard time making friends, as some were damaged relationally (*relasjonsskadde*) and preferred to isolate themselves at home. Some also had cognitive challenges that put them at risk of stigmatisation and bullying. It was common among the foster parents to inform other parents and the school about the challenges faced by their child, and most of them referred to the foster child as 'my son/boy', 'my daughter/girl' in order to mark that these children were equal members of their families. In other words, considering *kinning*, these labels confirm that these processes are taking place.

On 'family' and foster family

The biological principle and the view that *blood is thicker than water* were very evident in how the youth spoke about 'family'. The children said they wanted to live and present themselves as normally as possible and, as mentioned above, often spoke of foster parents as mum and dad in front of strangers, in order to avoid questions and explanations about how the family they lived in was set up. However, the children always included the biological family when I asked the question 'who is your family?'; even those who looked upon their foster family as 'my family now'.[10] Their original family became part of the new family or, as some foster parents said, 'We are an extended family.' Compared to how kinship is understood for instance in Korea, 'blood' is surely thicker than 'water' in Norwegian thinking on kinship when living together over time, while 'water', irrespective of biological ties, comes first in Korea.

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10   It is, of course, possible that they felt obliged to include biological origin, given this dominant Norwegian family structure.

How *their* (foster) family was defined by the young people clearly depended upon the length of stay in the family and how young they were when they moved in. Those variables, length of stay in the family and age when moving in, strongly influenced which name they used for their foster mother, foster father and siblings. The foster parents often let the foster child choose which name to use, mummy, daddy or their first name. According to my informants, however, even those children who arrived in the foster family when very young, tended to use a prefix on foster mother and/or biological mother, such as: Mummy-mummy (foster mother) and Mummy-Siri (foster mother), and just mummy for biological mother. In other words, in Norway today (at least among my informants) it appears almost impossible not to take biological roots into consideration when talking about family.

Again, depending on the length of stay in the foster family, thinking of that family as 'my' family varied. One girl was so used to being moved to a new family that she said she 'did not dare to think of foster family as "family"' in case she was moved again. One girl said that 'family to me is the people I love' and thus avoided taking a stand on her 'family' situation. However, it emerged from the foster parents that those children who had stayed with them for more than a year, in general, looked upon the foster family as their main family.

All the children, including those living with the foster parents interviewed, had contact with their biological parents. This is also strongly emphasised by the CWS and that foster parents should initiate such contact. The youth all said that the CWS were good at organising such meetings. It varied how often and for how long children met their biological parents. Interestingly, none of the interviewed children wished to see their biological parents more than they presently did. However, many wished to meet siblings more often, and it appeared that the CWS did not often organise contact between biological siblings. That the biological family often was included as part of the foster family's extended family came to light in cases of the child's confirmation (*konfirmasjon*) where they all participated. Still, the foster parents indicated that contact with the biological family could be challenging, and that the foster child could be very tense and uneasy for days before and after meeting their biological parents. As such, this is one consequence of the biological principle that may be understood to challenge the *kinning* process.

Results with discussion

Possible solution: a reconstruction of kinship and family?

As mentioned earlier, I view kinship as a system capable of change, not as a static structure (Alber et al. 2010; Smart, 2007). I have also discussed how the importance of biological roots for identity construction, judicial rights and presumed well-being has grown in Norway and is presently enshrined in the Children Act, which underlines the importance of biology or 'the biological principle' (Jørgensen, 2001; Bunkholdt, 2017). As already mentioned, Jørgensen has written about this development as the 'Biologization of the Children Act' (Jørgensen, 2001, p. 139) and argues that this has taken place because of the general development and emphasis of gender equality and equity in Norway, combined with developments in biomedicine and biotechnology. This development gives the biological father a higher status in the 1997 amendment to the Children Act (1981) than was the case previously (Jørgensen, 2001). In anthropology, it is common to distinguish between *genitor* and *pater*, the first being the biological father through semen, the other the husband of the child's mother. Of course, these are often the same person, but need not be. The *Pater-est* rule defines the child's (judicial) father as the one who is married to the mother, irrespective of genes. According to the 1997 amendment to the Children Act (1981), the father is determined through DNA tests. When biological fatherhood is determined, it is expected that he participates in raising the child, at least financially. In other words, the development of biotechnology has increased the significance of the biological principle and thus may have made it harder for foster children to experience kinship in their new families. At the same time, developments in biotechnology and biomedicine have revolutionised assisted biological reproduction, which may, ironically, open for a reconstruction of the definition of kinship and family. Out of empirical necessity, for instance new household and thus family constellations, the Pater-est rule may again become relevant in laws and family practice, as the following examples illustrate.

In Europe there exist different judicial acts that cover assisted reproduction. In Norway, a child has a (judicial) right to know their biological heritage from both mother (egg donation) and father (semen donation) when the child reaches the age of 18. In many other countries, assisted reproduction is fully commercialised. Eggs, semen and assisted fertilisation are bought

for money and the donors are usually anonymous. This means that a child conceived abroad, for instance by a Norwegian female, will not easily have access to its biological roots, and its social and judicial father will be the man living with the mother. I know of a case where both egg and semen are from unknown donors, where the mother had a fertilised egg implanted in her uterus. The baby matured in her body, and she is the child's social and judicial mother and the man living with her, its father. As such, she is also its biological mother in some sense, since the foetus has matured in her womb. She has nurtured this child through her body and blood. However, in this case neither the mother nor the father shares genes with their child.

A variant of the above are the various forms of surrogate reproduction, where the egg and semen may come from other persons than the social/judicial parents of the child. In more common cases of assisted fertilisation with donor semen only, it is the man (or woman) living with the mother who is the child's social and judicial father (or second mother). In other words, the pater-est rule exists in these cases where the biological roots are difficult/impossible/irrelevant to find. In addition, more than ever, as already mentioned, modern societies represent a vast number of family/household constellations in that equal judicial rights for lesbians, homosexuals and transsexual persons have increased. Biotechnological/biomedical developments and cultural change may thus necessitate thinking about new ways to define kinship and family in the future. In the words of Jon Schackt:

> While modern biological science has made it possible, to a greater extent, to base judicial laws on biological kinship, modern biotechnology, which is grounded in the same science, has made it possible to create or construct new forms of kinship relations. (Schackt, 2017, p. 238, my translation)

I think these are fascinating thoughts, which may make anthropological insights on kinship more relevant for modern societies in the future. More precisely, the recommendation made by the Raundalen Committee (Official Norwegian Report, 2012) that 'the development-supported attachment principle' (*det utviklingsstøttende tilknytningsprinsipp)* should be prioritised before the biological principle resonates very well with the idea that sharing of things such as food, homes and sexual relations includes people in kinship relations, such as among the Buid people of Mondoro in the Philippines (Meigs, 1987). Here a person becomes kin with all the people he/she lives with and thus shares meals with; they become 'family'

irrespective of biological ties. In the New Guinea Highlands, biology is also not the sole basis for kinship. For instance, the Hua people believe that a substance of kinship, *nu*, attaches people and exists in all bodily substances (semen, menstrual blood, sweat, spit, etc.). 'Children are "built" originally from menstrual blood and semen, and later from nurture', which includes sharing food and eating together (Meigs, 1987, p. 117). As already indicated, sharing and sociality, in general, are more common in definitions of kinship worldwide than shared biological substance (Marshall, 1977) and, as mentioned, in the Korean way of thinking, biological ties that are not nurtured by continuous, binding social activity fade in importance over time. Cultural awareness of sociality, attachment and cohabitation constitutes 'family'. If some of these ideas become dominant in the Norwegian understanding of kinship and family, downplaying biological roots and putting sharing, sociality, cohabitation and attachment theory up front, *kinning* of foster children *might* be made easier. According to Howell (2006) one significant criterion for successful *kinning* is that kin idioms or labels, such as mother, father, son, daughter, brother and sister, are used among those living together. I suggest that this will become easier for foster children if biological heritage is put in brackets. In other words, I suggest a change in the understanding of family, which Halsa (see Halsa' chapter in this book) argues is the case to some extent among the young people in her study. Some of them started to call their mother's boyfriend 'father' due to a lack of contact with their biological father and, as mentioned above, a girl in my study defined 'family' for her 'as the people I love'. In other words, 'family' as a phenomenon is dynamic and capable of change.

Conclusion

The first question I aimed to answer in this chapter was 'How is the idea of the best interests of the child represented in foster care, as tied to inclusion in families?' I have argued that this principle is closely tied to the biological principle and the arrangement of staying in a stable foster home, which is what the children prefer because it makes them *feel safe* and *normal*. They experienced *being listened to* in varying degrees but were most often asked their opinion. Foster families are also expected to be in dialogue with biological parents, which was often experienced as challenging for both foster parents and foster children. None of the children expressed a wish for more contact with their biological family; in fact, quite the contrary.

My second question was 'In what ways is inclusion of children in foster families challenged by the biological principle, that is, implications of the saying "blood is thicker than water"?' By applying the concept of *kinning*, I argued that a successful *kinning* process can be undermined by the cultural dominance of the biological principle as enshrined in the best interests of the child and in both the Children Act (1981, amended 1997) and the Adoption Act (2017, amended in 2022). This is so because it makes it difficult for the children to apply kin labels to members of the foster family and to *feel normal* among peers. They were easily bullied and stigmatised when it became known that they did not live with their biological parents. Because of the cultural awareness of biological roots, foster children are reluctant to consider foster family as 'family' but do so via-à-vis the outer world in order to appear 'normal' and avoid troubling questions about their heritage. The length of stay in the foster family and the age at which they moved in influence how they experience and think of the foster family. The longer they have stayed and the younger they were when they moved in, the more successful *kinning* appears to be.

My last question was 'How can biomedical/biotechnological development combined with anthropological literature inspire a reconstruction of kinship and family in Norway?' I have suggested that reduced emphasis on biology and increased focus on the significance of sociality, cohabitation and attachment quality for social inclusion may increase the success of *kinning* of foster children in foster families. I suggest a possible solution through a reconstruction of family and kinship as a consequence of innovations in biomedicine and biotechnology that often make it difficult and complicated to trace biological roots, and thus to prioritise 'blood before water'. In addition, this development resonates well with new (old) ideas of family and kinship. As such, as a result of this development in artificial reproduction and thus cultural change, we *may* see a de-biologisation of the present Children Act (1997), Child Welfare Act (2023) and Adoption Act (2017, 2022) with the psychological principle included; in sum, resulting in new cultural meanings of 'family' and 'kinship'.

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References

The Adoption Act [Adopsjonsloven]. (2017, amended in 2022). *Lov om adopsjon* (LOV-2022-06-17-44). Lovdata. https://lovdata.no/dokument/NL/lov/2017-06-16-48

Alber, E., Haberlein, T., & Martin, J. (2010). Changing webs of kinship: Spotlights on West Africa. *Africa Spectrum*, *45*(3), 43–67. https://doi.org/10.1177/000203971004500303

Bunkholdt, V. (2017). *Fosterhjemsarbeid. Fra rekruttering til tilbakeføring* [Fostercare work. From recruitment to reversal]. Gyldendal Akademisk.

The Children Act [Barneloven]. (1981, amended in 1997). *Lov om barn og foreldre* (LOV-1981-04-08-7). Lovdata. Lov om barn og foreldre (barnelova) – Lovdata

The Child Welfare Act [Barnevernsloven]. (2023). *Lov om barnevern* (LOV-2021-06-18-97). Lovdata.

Howell, S., & Melhuus, M. (Eds.) (2001). *Blod tykkere enn vann?* [Blood thicker than water?] Fagbokforlaget.

Howell, S. (2004). The backpackers that come to stay: New challenges to Norwegian transnational adoptive families. In F. Bowie (Ed.), *Cross-cultural approaches to adoption* (pp. 227–241). Routledge.

Howell, S. (2006). *The kinning of foreigners*. Berghahn Books.

Johnsen, E. K. L. (2019). *En fot på hver side* [One foot on either side] [Master's thesis]. University of Oslo.

Jørgensen, T. (2001): Til barnas beste: Samværsrett og blodsbåndforestillinger [To the best interest of the child: Visitation rights and ideas of blood relationships]. In Howell, S. & Melhuus, M. (Eds.), *Blod er tykkere enn vann? Betydninger av slektskap i Norge* (Chapter 5). Fagbokforlaget.

Madden, R. (2010). *Being ethnographic – a guide to the theory and practice of ethnography.* Sage Publications Ltd.

Marshall, M. (1977). The nature of nurture. *American Ethnologist 4*(4), 643–662.

Meigs, A. (1987). Blood kin and food kin. In D. W. McCurdy & J. P. Spradley (Eds.), *Conformity and conflict: Readings in cultural anthropology*. Little, Brown and Co.

Nordby, H., & Halsa, A. (2020). *Verdier i barnevern* [Values in child welfare]. Cappelen Damm Akademisk. https://doi.org/10.23865/noasp.103

Official Norwegian Report [NOU 2012: 5]. (2012). *Bedre beskyttelse av barns utvikling* [Better protection of children's development]. Ministry of Children and Families.

Official Norwegian Report [NOU 2023: 7]. (2023). *Trygg barndom, sikker fremtid* [Safe childhood, secure future]. Ministry of Children and Families.

Rysst, M. (2020). Kulturelle verdier og barnevernet: Ulike forståelser av barnets beste [Different understandings of the best interests of the child]. In H. Nordby & A. Halsa (Eds.), *Verdier i barnevern* (pp. 89– 111). Cappelen Damm Akademisk. https://doi.org/10.23865/noasp.103.ch5

Schackt, J. (2017). *Slektskap, familie og kjønn: Antropologiske perspektiver* [Kinship, family and gender: Anthropological perspectives]. Cappelen Damm.

Schneider, D. M. (1984). *A critique of the study of kinship.* University of Michigan Press.

Smart, C. (2007). *Personal life: New directions in sociological thinking*. Polity Press.

CHAPTER 5

Quality and Legitimacy in ECEC Mapping: How Can Mapping Contribute to the Protection of Children and Their Families?

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Abstract: In this chapter I discuss the quality and legitimacy of mapping in Early Childhood Education and Care (ECEC) and how the mapping and cooperation with the parents can be a bridge-builder to the Child Welfare Services (CWS). I use data from my doctoral dissertation on how mapping is included in the pedagogical practice of ECEC assistants and teachers, with a focus on whether and to what extent this process takes children's perspectives into account (Midtskogen, 2022). Through participatory observation and individual interviews with parents and ECEC employees, I find that there is no standardised mapping with specific quality requirements for ECEC institutions today. It is interesting to discuss the quality and legitimacy of the ECEC institution's dynamic mapping process because such mapping can have implications for the family's path to the CWS at an early stage, contribute to the family's resilience process and prevent dangerous situations for the children. I direct the analyses and interpretation of the findings towards the extent to which the mapping process includes elements that fulfil the requirements of deliberative theory, such as the involvement of affected parties, argumentation, discussion and transparency (Læret & Skivenes, 2016; Oterholm, 2003; Eriksen & Weigård, 1999). Thus, this chapter contributes knowledge about the right to child and family participation in the mapping process in Norwegian ECEC institutions and how the institution's mapping can be part of a comprehensive developmental process for the family, serving as a bridge to the CWS and other child and family services.

Keywords: child protection, ECEC, mapping, deliberative theory

Introduction

In recent years, there has been increased attention on cooperation between welfare services in cases involving complex challenges for children, young people and their families. The Norwegian Child Welfare Services (CWS) face challenges in helping families where the scope of the problem is extensive. The challenges are referred to as wicked problems, i.e., they appear complex and stubborn, and cross different areas of responsibility (Fauske et al., 2016; Fauske et al., 2017; Rittel & Webber, 1973). The problems often begin in early childhood and the support system fails in trying to deal with these cases (Norwegian Ministry of Children and Equality, 2017, p. 40). Early intervention for children and young people has long been a guideline from the Norwegian authorities. Early intervention, increased user participation and cross-sectoral cooperation are regarded as key instruments for preventing the development of wicked problems. In preventive work, welfare services are dependent on families receiving help to mobilise the support that may exist in their own social networks and local surroundings. Early cooperation between parents, Early Childhood Education and Care (ECEC) institutions and the CWS can enhance the municipality's ability to provide help at a time when the family has a limited scope of problems.

The family is central to the entire Norwegian and Nordic ECEC project. In the preamble to the Norwegian Kindergarten Act (2005, Section 1), parents are given the right to have an influence on everything that takes place in the ECEC institution. ECEC operations are based on values such as holistic thinking about the child, protection, the reduction of risk and early intervention for children who need special follow-up. The Kindergarten Act (2005) provides guidelines for systematic mapping of children's needs for educational adaptation and for uncovering neglect, violence and abuse. Uncovering deficiencies in children's care situations and the need for measures by the CWS is a different process to mapping children's needs for educational adaptation and needs for support in ECEC activities. ECEC institutions must be aware of circumstances that may lead to measures being taken by the CWS (the Kindergarten Act, 2005, Section 46). Uncovering neglect takes place during a screening process that may result in a decision that the child and family are offered help or required to take action by the municipal CWS.

ECEC institutions have no guidelines for which procedures mapping processes should follow, other than requirements to cooperate with parents

and to take the child's best interests into account. The CWS's decision-making processes are carried out in accordance with several procedural requirements, with clear expectations that children, parents and others with a bearing on the decision are allowed to express their opinions and argue for their views on the issues raised. According to Læret and Skivenes (2016), the principle of the best interests of the child is central to child welfare decisions. This is also an overriding principle in ECEC legislation (the Kindergarten Act, 2005) and the UN Convention on the Rights of the Child (United Nations, 1989). The four procedural requirements for child welfare decisions are based on deliberative theory. These requirements entail that 'affected parties must be involved', 'relevant information and knowledge must be consulted', 'there must be time and space to assess and discuss information and arguments that have been produced', and 'there must be forms of transparency' (Læret & Skivenes, 2016, p. 38). Within deliberative theory, the decision-making process itself is central. Through an open process with clear argumentation from the parties, the best arguments win and these form the basis for the decision. According to national and international requirements for good administrative practice, decisions that affect citizens must safeguard the legal security of those affected (Fimreite & Grindheim, 2007). In the CWS's and ECEC institution's mapping of the child's situation, the legal protection of children and parents is an important consideration.

The legitimacy and quality of ECEC mapping work is relevant for the legal protection of children and parents but is also important because the responsibility for preventive work for children and families lies with the municipality (Norwegian Directorate of Health, 2022). Problems affecting children, adolescents and families should first and foremost be solved locally. All municipal welfare services for children and young people are legally obliged to carry out work using a preventive and interdisciplinary approach.

In this chapter, I discuss the quality and legitimacy of ECEC mapping and how mapping and cooperation with parents can be a bridge-builder to the CWS by considering four procedural requirements that Læret and Skivenes (2016, p. 38) derive from deliberative theory.

In the next section, I will explain previous research and the ECEC's social mandate and dynamic mapping, and the requirement for the best interests of the child in this context. I then explain the four procedural requirements within deliberative theory and a methodological approach

to collecting and analysing my data before presenting and discussing my findings.

Research on cooperation between the CWS and ECEC institutions

Little is known about what ECEC institutions as measures for the CWS specifically offer to the individual child beyond being a compensatory measure (Christiansen, 2015). There is some research on notes of concern from ECEC institutions to the CWS that is relevant to my discussion (Baklien, 2009; Backe-Hansen, 2009; Nilsen, 2013; Haugset et al., 2015).

Baklien (2009) identifies barriers to cooperation between ECEC institutions and the CWS in her study. Barriers such as confidentiality, lack of resources, physical distance, and lack of knowledge and understanding of each other result in a lack of trust. Trust on the part of ECEC institutions is reduced because of the CWS being perceived as a closed system. In addition, the study showed that the agencies disagreed on measures: the CWS was criticised for either doing too little or initiating interventions that were too drastic. The CWS, on the other hand, stated that ECEC institutions waited too long before sending a note of concern related to situations that were perceived to be unsolvable. Moreover, the CWS believed that ECEC institutions have unrealistic expectations of what the CWS can do.

In her study of the cooperation between ECEC institutions and the CWS, Backe-Hansen (2009) found that ECEC managers wanted increased competence in talking to parents and children before and after notes of concern had been sent to the CWS. The managers wanted to strengthen academic competence in what to look for in the children and knowledge of the different cultures that the children come from. The managers also wanted a more visible and open CWS that visits ECEC institutions both at parent meetings and staff meetings, and they wanted a permanent contact person who they could cooperate with in the municipal CWS over time. Finally, the managers stated a desire to discuss concerns anonymously and have access to interdisciplinary meeting places where representatives from ECEC institutions and the CWS could participate.

Nilsen (2013, p. 159) claims, after her investigation of 34 cases where ECEC institutions sent notes of concern to the CWS, that there is a need for more knowledge about ECEC staff's competence in identifying children

about whom there is reason to be concerned. The boys, who account for a higher proportion of the notes of concern, often exhibited behaviour that was visible and considered problematic by ECEC staff. According to Nilsen, there is a need for more knowledge about whether ECEC employees note concerns in cases that lie within the 'grey area', and whether they have competence in detecting problems in children who are quiet and aggressive. In addition, Nilsen argues, more knowledge is needed about how parental cooperation takes place in situations that can lead to notes of concern being sent to the CWS.

In their study, Haugset et al. (2015) found that ECEC managers felt that they had insufficient competence in talking to children and parents in difficult situations, and that they were afraid of the consequences of sending notes of concern to the CWS. Some were afraid that their relationship with the parents might be damaged, and they were also afraid of becoming personally involved in these cases.

The sending of notes of concern by ECEC institutions to the CWS seems to be a growing trend. Moreover, a large proportion of these notes of concern are followed up. According to the Norwegian Directorate for Children, Youth and Family Affairs, 93.5 per cent of them were further examined in 2021. Approximately 5 per cent of all notes to the CWS come from ECEC institutions. In the case of notes of concern for children aged 3–5 years, 18 per cent come from ECEC institutions (Norwegian Directorate for Children, Youth and Family Affairs, 2021).

In my own study, I found that ECEC institutions rarely sent notes of concern to the CWS. The employees had a high threshold for cooperating with the CWS, and they perceived the service as inaccessible. At the same time, I found examples of how ECEC teachers cooperated with families, making the ECEC involved as an important partner in the protection of children and the prevention of serious abuse in care situations.

The ECEC institution's social mandate and the principle of the best interests of the child

In the ECEC institution's social mandate, as stated in Section 1 of the Kindergarten Act (2005) and in the Framework Plan for Kindergartens (Norwegian Directorate for Education and Training, 2017, pp. 7, 9), ECEC institutions are a collaborative project with parents. Key social policy

objectives are to reduce social inequalities, contribute to early interven-
tion, have a health-promoting and preventive function, and must contrib-
ute to even out social inequalities (the Kindergarten Act, 2005, Section 2).
Within their mandate, ECEC teachers must identify the developmental
needs that exist within the whole group of children and in individual chil-
dren. All educational practice – and mapping – shall take place in a way that
considers children's right to participation based on age and maturity, and
safeguard children's integrity, cf. the Kindergarten Act (2005, Section 3).

The ECEC teacher is to work in an evidence-based and systematic
way to map, assess and document relevant data in order to safeguard the
children's holistic development. Important ethical norms in mapping are
openness and cooperation with children and parents (the Kindergarten
Act, 2005, Section 1). The ECEC teacher must have an ongoing dialogue
about the child with the parents and make it possible for both parties to
'[…] regularly […] exchange observations and assessments related to the
individual child's health, well-being, experiences, development and learn-
ing' (Norwegian Directorate for Education and Training, 2017, p. 29).

I found in my study that ECEC employees try to carry out dynamic
mapping. The characteristic of this mapping is that it is part of the
employees' pedagogical practice and takes place in an interaction between
mapping, assessment and intervention in ECEC everyday life (Lyngseth,
2020b, p. 62). Mapping is carried out by having different conversations
with the child and parents, and through various forms of observation and
discussions related to assessments. Dynamic mapping is closely related to
pedagogical documentation. The ECEC institution's documentation may,
for example, consist of records of observation of the children that are under
discussion. Taguchi (2015) emphasises the necessity for ECEC teachers to
highlight and be critical of their own practice (p. 62), and to get close to
the children's reality and enable themselves, first and foremost, to interact
with the children, but also with the parents, through communicative acts.
The work method safeguards an understanding of children as competent
and that competence is situational in the relationship between children
and adults, in line with what resilience research points out as a significant
factor (Rutter, 2012, 2013).

Eriksen (2018) argues that the principle of the best interests of the child
has both an individual orientation, the best interests of the individual child,
and a collective orientation, the best interests of the whole group of chil-
dren. The concept of the best interests of the child constantly opens up

for new knowledge about children's development and existing measures. Professionals who work in services and in arenas for children are thus allowed a great deal of professional judgement.

Various services for children, including children's homes, should contribute to universal, selective and indicative prevention of problems (Norwegian Directorate of Health, 2022). The indicative level of prevention is aimed at individuals with a high risk of disease or high level of symptoms. Children living in a failing care situation may have a high risk of disease or show a high symptom level, even if their surroundings observe unclear and different signals coming from them. The mapping must be justified, it must be targeted and requires informed consent from the parents (Norwegian Directorate for Education and Training, 2017, p. 39). The justification may be based on observations of worrying signals the child gives, observations of interaction and communication between the staff and the child, observations of the child's interaction skills with other children and of the communication and interaction between the child and the parents.

The ECEC institution cooperates with the child health clinic and the municipal educational psychological counselling service (PPT) on several aspects of preventive work related to children's health and educational development needs. The child health clinic is a discussion partner and will, among other things, assist in follow-up of children's physical, mental and social health, particularly through providing support for the parenting role (Norwegian Directorate for Education and Training, 2017, p. 16). The PPT is to assist ECEC institutions with the assessment and follow-up of children (the Kindergarten Act, 2005, Sections 34 and 35) and guidance to staff when they request it, cf. the Kindergarten Act (2005, Section 33). The work carried out by ECEC institutions, health clinics and the PPT in relation to children and families is focused on providing help to address challenges and prevent problem development. The effect of this assistance is important for the family's development process and for assessments made by the CWS regarding further protection and risk mitigation for children. It is the coherence and cooperation between the collective group of services including the ECEC institutions, health clinics and the PPT that may be challenged when municipalities are given overall responsibility for preventive work. A duty to cooperate with the child and family services clarifies the principle that the protection of children primarily takes place through clear cooperation with the child's family.

Four elements of deliberative theory

In my analysis of what parents and staff in my study said about mapping in ECEC institutions, I used the four procedural requirements that Læret and Skivenes (2016) used in connection with child welfare decisions. Parents are important partners for ECEC institutions when it comes to understanding children's development and safeguarding children's needs and legal protection. Habermas' discourse theory and the deliberative understanding of decision-making are based on a view of subject-subject relationships between people in dialogical relations (Eriksen & Weigård, 1999). In his discourse theory, Habermas advocates coercion, equalisation and equality between participants in a democratic society with deliberative politics (Eriksen & Weigård, 1999, p. 234). An important question is whether it is possible to fulfil these ideals in a context where demands for the protection of children are one of the central tasks. The use of Habermas' discourse theory has been discussed previously. Oterholm (2003, p. 219) questions whether Habermas' theory of discourse is at all possible to use in child welfare in view of the theory's starting point in coercion, equality and equalisation of power between private and public parties. Habermas advocates a coercive process in which the parties are assumed to have legitimate rational opinions in matters that concern them. A decision-making process with the ideal of a coercive dialogue between affected parties offers opportunities to meet due process requirements, such as children's and parents' statutory right to participation in matters that concern them. Within Norwegian society and services for children and young people, the principle of equality is a high priority even if not everyone is equal. The four procedural requirements (cf. Læret & Skivenes, 2016) are part of a decision-making model where dialogue between the parties forms the foundation. Oterholm's (2003) article was written during a period in which there was a strong focus on public and professional discourses on participatory practice, children's rights and especially child welfare as an agency. Much has happened since 2003, particularly in relation to children's constitutional right to participation (Constitution of the Kingdom of Norway, 1814, Section 104), early intervention vis-à-vis families with children and demands for clear and documented trade-offs related to children's right to protection and children's right to family life, cf. the UN Convention on the Rights of the Child (United Nations, 1989) and the principle of the best interests of the child.

Oterholm (2003) points out that gender equality, coercive freedom and power equalisation still present challenges because processes related to children's development and the prevention of serious situations are always complex. Ideals of coercive freedom, equality and equalisation are challenging to fulfil in all services for children and young people that are intended to safeguard the principle of the best interests of the child and protect it from neglect and abuse, partly because the relationship between private and public parties will always be asymmetrical when it comes to the protection of children. However, ideal requirements can serve as guidelines for good communication between the public sector and the parties involved, and for children and parents when participating in the decision-making processes that concern them. Communicative action is central to Habermas' theory of deliberative democracy and may well function as an ideal of good administrative practice in the encounter between welfare services, children and families. A deliberative approach to decision-making processes involving children is more important than ever because children's legal protection is strengthened and welfare services are required to document their work processes, including documentation of how children and the child's family are involved. This means that children, young people and parents should be given discursive spaces to participate in the way they are able to in circumstances that concern them, where both they and the professionals are given opportunities to broaden their horizons of understanding of what the situation for an individual child is about.

Norway's view of the intrinsic value of childhood and children as legal subjects has been strengthened through legislation in recent years. It is as influenced that children and adults are socialised and re-socialised continuously. It is through the interaction between people that society is both maintained and developed, and knowledge is transferred between subjects and between generations. On this basis, our understanding is characterised by temporality because new knowledge leads to new understanding. Læret and Skivenes (2016) link this temporariness to decision-making processes in child welfare work where new insights may lead to new decisions, but also to questions about the quality and legitimacy of the process that has taken place.

Mapping in ECEC institutions also has a temporal aspect. What the informants in my study said about their mapping work can be perceived as a preliminary understanding of both the children and themselves as professionals. A form of temporariness is a prerequisite in dynamic mapping,

where part of the core is precisely that people influence each other within activities in progress, and that employees acquire new knowledge about the children that leads to a new understanding of them. The temporality of selective and indicative mapping where all parties are involved is shown through arguments and counterarguments and the unified understanding of the situation of those involved.

The essence of deliberation is that all parties should be involved in providing views and arguments in decision-making processes. The process must be conducted openly, and the quality and legitimacy of the decisions depends on how the process has taken place. In this context, rational arguments are about the correspondence between knowledge-based arguments and the perception of how reasonable they are. Arguments and counterarguments are expressed by the parties involved and discussed and weighed up, and both evidence-based and experience-based professional judgement is included in the assessments that lead to decisions and conclusions. The decisions are legitimate and of quality when the arguments of the parties concerned are discussed freely and openly, and when no rational counterarguments can be cited to the decisions. Transferred to mapping in ECEC institutions, quality assurance of the decision-making process will depend on transparency related to assessments of the child and the parents, the participants in discussions, how everyone's views are treated and how the ECEC institution justifies its mapping.

As mentioned in the Introduction, the four procedural requirements for child welfare decisions that Læret and Skivenes derive from deliberative theory are that 'affected parties must be involved', 'relevant information and knowledge must be consulted', 'there must be time and space to assess and discuss information and arguments that have been produced', and 'there must be forms of transparency' (2016, p. 38). As they point out, these requirements lie within established Norwegian and international administrative principles of considering legality, publicity, the possibility of contradiction, objectivity, equal treatment, predictability, prudence, privacy and proportionality (Fimreite & Grindheim, 2007, pp. 68–69; Læret & Skivenes, 2016, p. 38). All four procedural requirements constitute a standard that is also relevant for ECEC institutions' selective mapping of children. Both children and parents are affected parties and important sources of knowledge. ECEC institutions must obtain views and arguments from parents, cf. the principle of legality, the principle of privacy, the principle of freedom of information and the contradictory principle. The exercise of the ECEC institution's professional judgement and justifications must be

open, clear and knowledge-based, cf. the principle of objectivity and the principle of prudence.

A research project on the mapping of children in ECEC

Mapping of children and parents must be justified, targeted and based on informed consent. The parents shall, as the ECEC institution's partners and by virtue of their parental responsibility, share their assessments of what the child needs (Children Act, 1981, Sections 30 and 31). Teachers must therefore listen to parents about their views of their children and what they need in order to meet the requirements of the Kindergarten Act (2005). It is the parents' and ECEC staff's experiences with and perceptions of the cooperation between them that are interesting here.

I obtained data from two ECEC institutions in the research project on how mapping of children in ECEC is included in the staff's pedagogical practice and whether the child's perspective is taken into consideration in mapping (Midtskogen, 2022). I conducted individual qualitative interviews with four parents, seven ECEC teachers and seven ECEC assistants, as well as participating as an observer at staff meetings. The content of the interviews used in this chapter deals with what parents and staff reported on mapping and cooperation between them. Data from participant observation contain discussions the staff had about the ongoing mapping of the children. All interviews and participant observations were recorded and transcribed into text afterwards.

The analyses were conducted with interpretation, primarily to interpret and understand what the informants said and did, but the four procedural requirements of involvement, argumentation, discussion and openness derived from deliberative theory gave the analyses a direction.

Findings

I present the results according to the four elements derived from deliberative theory as mentioned above.

Openness and involvement

I found that the informants in ECEC institutions generally talked little about mapping and parental cooperation. The cooperation between home

and ECEC institution takes place to a small extent beyond the ongoing dialogue morning and afternoon when the children arrive and are picked up. It is up to the individual ECEC teacher whether the parents are informed about the start of mapping. Consent is not obtained from the parents prior to selective mapping, and they are not informed to any great extent about knowledge the ECEC institution acquires about the child in a mapping context.

The staff gave no description of conversations with children being included in the mapping process beyond the communication that takes place during daily activities.

During participant observation, I also found that the teachers tried to use dynamic mapping that involved alternating mapping, assessment and interventions. The mapping consisted of various conversations, observations and discussions. Assessment consisted of discussions of content from observations and conversations that had been conducted and took place between a qualified educator and two assistants. There was little discussion of the employees' knowledge of children and parents at staff meetings.

During the interviews, parents stated that they wanted more frequent cooperation with the ECEC institution and a dialogue that gave both parties in-depth knowledge about the children. One parent questioned whether the staff were unsure what they thought of their children and said, 'Yes, and that the employees go a little more in depth and ask what something is really about. The dialogue is good, but maybe they're also uncertain.' The parents stated a wish to get a clearer overview of their child's ECEC situation and said that they experienced variation among staff about what everyone was concerned with and what assessments employees made.

The staff said that many parents were uncertain and worried about whether their children were functioning according to age-related expectations. The parents wondered if the staff were uncertain about what they thought about the children and whether the staff met the children's needs in everyday life. However, the picture painted by such mutual uncertainty was not clear-cut. One of the ECEC teachers said that she and the parents usually asked the same questions about whether the child needed educational adaptation and developmental support (Midtskogen, 2022, p. 169), but that it was the ECEC institution that must create a space to talk about children's needs related to conditions such as mental health problems in parents (p. 97). One ECEC teacher talked about her approach towards struggling families. She conducted both child and parent conversations and facilitated cooperation

to strengthen the resilience processes of families and individuals. Children's conversations offered children participation and increased the likelihood of a sense of security for the child, where their experiences were listened to in a way that gave them the opportunity to understand the situation in a better way (Kjørholt, 2005; Sommer et al., 2013).

How the mapping processes on the part of the employees took place gave me a general impression of a universal level where the process was linked to general perceptions of a child's functioning in the children's community in the ECEC. Findings from participant observation at staff meetings showed that there was a continuous need for new observations of the children under discussion. Mapping was generally linked to the dynamics of everyday life through alternate mapping, assessment and intervention, without clear systematics or direction, or any specified procedural requirements. Both parents and staff described their impressions of the child in quite a lot of detail, but the parties shared little of the knowledge they had with each other. As such, ECEC institutions do not appear to be clear collaborative projects between educators and parents about processes that should clarify what children need. The parents' and ECEC teachers' knowledge of the child was not sufficiently reconciled to a common direction for the support the child needed.

Consultation

I found that ECEC institutions cooperated little with other services and rarely used the opportunities available to other services to consult on questions and issues related to children's functioning and situation. There was little cooperation and few discussions with the child health clinic. The PPT and special needs educators are generally little used by ECEC teachers because they perceive that the service has a narrow understanding of what the cause of the children's problems may be (Midtskogen, 2022).

ECEC institutions have a duty to send notes of concern about children's care situation, cf. the Kindergarten Act (2005, Section 48), but this duty is only triggered by a serious concern where children are exposed to a situation that could harm their development and which the CWS may implement measures to prevent. The ECEC teachers and assistants I spoke to said that they cooperated little with the municipal CWS, and ECEC teachers reported instances where the CWS was not readily available for dialogue and cooperation. The reason for limited collaboration was also somewhat evident in the informants' accounts about the opportunities they had to

use the municipality's interdisciplinary team. These are teams composed of the municipal medical officer and representatives from child welfare, the PPT and the health clinic. The informants said that they believed that there were too many services represented in such teams. It was also reported that it could be difficult to maintain the anonymity of the child and the family when parental consent was not obtained to discuss issues in the interdisciplinary team.

The ECEC teachers had their own internal municipal network groups where they could discuss issues, but the group members rarely met, they were numerous and took place outside ordinary working hours. It was therefore not a given that the ECEC teacher could participate in the network group.

Deliberation

An essential part of decision-making processes in deliberative theory is the deliberation itself – the assessments and discussion of information and arguments, and aspects related to conducting mapping.

There is a clear pattern in the data material that the time spent on follow-up of individual children and academic discussions is insufficient. Among the many challenges in ECEC everyday life, too many children per employee were mentioned, there was little agreement in the staff group about what a child needed, discussions were given low priority and, in discussions, the same thing was discussed repeatedly. Much of what happened in connection with assessments was explained by a practice characterised by old habits and routines where the mapping did not appear clear. Many informants stated that they did not know what to do if the child showed a need for support. One of the ECEC teachers claimed that the topics discussed went on in a recurring circle and she wanted more progress in the discussions with an external supervisor. Factors mentioned included reflecting on what they observed, how mapping could be systematised and what support for children and parents might be appropriate to provide.

Discussion

Sufficient time and competence for mapping, testing pedagogical measures and assessments of what has been carried out are necessary in order to deal with a collective orientation towards the principle of the best interests of

the child – an orientation towards the whole group of children. Time and competence are also needed with an individual orientation towards the best interests of the child, where mapping will result in documented decisions about appropriate actions in relation to children's needs in ECEC and decisions that can, for some children and parents, make ECEC institutions a bridge-builder to the CWS. It is this interaction and cooperation between the ECEC institution and the CWS that my discussion is aimed at.

I find that mapping in ECEC institutions at universal, selective and indicative levels overlaps (Midtskogen, 2022, p. 44). This means that the employees appear unclear as to what the mapping process is focusing on at any given time. Arguments in favour of universal – general – mapping being the most prominent form of mapping and continuing over time are that it can be a way of safeguarding children's personal integrity and reflects the ethical principle in ECEC legislation that it should not screen children more than necessary (Norwegian Directorate for Education and Training, 2017, p. 39). Another argument is that it is only possible to identify the needs of children when they are identified over time in ECEC and contribute to clarity regarding the children's need for assistance. The counterargument is that children and families are unnecessarily prevented from getting the help needed because the underlying causes of the children's and parents' problems are not known or possible for the ECEC institution to detect. Children's behaviour can thus be understood and assessed based on individual attribute explanations by the staff and the unknown factors behind children's behaviour caused by neglect are overlooked.

Oterholm (2003, p. 217) points out, within the context of the CWS, that according to Habermas' discourse theory, these four procedural requirements can be regarded as ideal-typical for 'ensuring normatively correct decisions', but that in a child welfare professional participant-oriented practice they encounter some dilemmas, particularly related to the ideal of a coercion-free dialogue. One example Oterholm (p. 218) cites with reference to Schanning (1993, p. 183) is that participation does not automatically imply that one says what one believes. There will always be uncertainty associated with the parents' openness about the situation they find themselves in and whether they refrain from sending notes of concern because they are uncertain about the CWS's use of power against them.

In the context of mapping in ECEC institutions and investigations by the CWS, participation, awareness of the use of power and communicative competence are about good qualitative practice and possible sources

of error. Good mapping involves awareness of what can lead to misinterpretation of results. A source of error may arise if the cooperation between parents and staff is such that the parents do not communicate views on the child's and their own needs, concerns and wishes. There is no important information that must be considered in the mapping process, which makes it difficult to quality assure employees' perception of the needs of the child and the parents. Another source of error is that individual employees allow information about children and parents to be influenced by their own preconceptions (Lyngseth, 2020c, p. 73). This entails misinterpretation of the content of conversations and observations in that different observations are not seen in context, and that procedural requirements such as openness, the participation of those involved and contradiction are not followed.

As an important partner for the family and the CWS, ECEC institutions are to be clear in their use of professional frameworks of understanding when assessing a child's situation and needs as part of a whole centred around the child, and as an important part of assessments of what is in a child's best interests, cf. the Kindergarten Act (2005) and the Framework Plan for Kindergartens (Norwegian Directorate for Education and Training, 2017).

In line with the procedural requirements of deliberative theory, professionals must incorporate the parents' knowledge about the child and what the child expresses. This is knowledge that the employees can discuss, but they must also create room for deliberation with the parents so that they as affected parties get to take part in the argumentation that is to take place and fulfil the principle of contradiction.

The ideal of coercive communication presents dilemmas and challenges for all services for children and young people, because the services should contribute to the best interests of the child, where children's right to protection from neglect, violence and abuse is a key element. The concern of the ECEC institution regarding the possible risk of violence or serious abuse of children, which may result in sending a note of concern to the CWS without the knowledge and willingness of the child and parents, is an example of an area where professionals are given the power to intervene in the best interests of the child. At the same time, such a situation must be documented and the absence of children's and parents' rights to participate shall be justified by knowledge-based discretion, cf. the principle of privacy and legality.

A mapping process in line with deliberative procedures requires competence because observations, assessments and arguments must be elucidated in an evidence-based manner. The data material in my study gives reason to ask whether the level of competence in Norwegian ECEC institutions is high enough, since ECEC teachers constitute just over a third of employees. It may also be asked whether ECEC teachers could contribute to better health and life skills for the children if they had more competent colleagues to cooperate and discuss with.

Haugli problematises the normative nature of the principle of the best interests of the child. She argues that 'Normative positions about what is best for children in general or for a particular child can be based on academic arguments, on values, ideologies, prejudices, ignorance or totally unfair arguments' (2002, p. 325). She also points out that local variations in the use of the principle based on the individual's professional judgement take place along a continuum where assessments are characterised by arbitrary work on the one hand and professional and knowledge-based judgement on the other (Haugli, 2002).

Norwegian researchers Børhaug et al. (2018, p. 41) refer to studies that address the fact that habitual and routine pedagogical practice in ECEC institutions is related to how strong the individual employee's professional judgement is. Strong professional judgement must be based on discussion that is characterised by academic, practical and ethical knowledge, and it is conceivable that an evidence-based approach in discussion is reduced because only one-third of the employees are ECEC teachers while the rest of the employees are assistants.

Close to 60 per cent of children at risk develop satisfactorily despite risks in the home. Childhood and resilience research (Rutter, 2012, 2013) warns against drawing clear links between symptoms of high risk in children and mental difficulties and disorders later in life. The research suggests that it is important to look at protective factors, such as ECEC institutions, which can help to protect children at risk. Cooperation that entails a systematic process in which the contradictory principle is followed – where children and parents as involved parties are allowed to express their views and arguments – is necessary to safeguard the rule of law. However, such cooperation is also valuable from a developmental perspective because children develop in different directions depending on how they react to risk factors and protective factors; this is an individual orientation to the principle of the best interests of the child (Midtskogen, 2022). An important goal

in mapping and decision-making processes is to focus attention overall on the family. That all parties involved are heard can increase the possibilities for the family's experience of meaning on a day-to-day basis, enabling them to understand what is happening, attain satisfaction and act and find solutions to the challenges that exist and arise, in accordance with Antonovsky's (1979) concept of 'sense of coherence'.

ECEC teachers have told me that they are critical of cooperation with the CWS (Midtskogen, 2022, p. 117). One finding from Haugset et al.'s (2015) research is that the staff point out possible negative consequences for the relationship with the parents if they contact the CWS. An ECEC teacher in my study talked about parents who were questioned by ECEC staff in regard to the care situation in cases where the parents had mental health problems and help was needed. In these situations, the ECEC teacher followed the requirements for the involvement of those affected, safeguarded privacy, openness and prudence, and enabled consultation of relevant information and knowledge with an individual assessment of the child's best interests. In this way, the ECEC teacher contributed to the ECEC institution's mapping as a way to cooperate with the CWS and as part of a possible development process for the family. Ljones et al. (2019) claim that there is little concrete definition of what advice and guidance as an intervention entails for the parents who receive the intervention. Documentation from the ECEC institution's mapping can help to make cooperation between the family and the CWS more concrete. Documentation can also help to streamline the compensatory role of ECEC institutions by giving children more specific support rather than just general care. Finally, mapping and documentation can help to concretise the content of parental guidance and assess which agency can provide this guidance.

Haugset et al. (2015) found that ECEC managers claimed that staff have insufficient competence in talking to children and parents about difficult topics and situations. Backe-Hansen (2009) found that ECEC institutions needed more knowledge about what the staff should pay special attention to in the children, and that the managers wanted a more open and visible CWS.

I found that the staff did not conduct defined conversations with children about possible difficult topics and situations during the mapping process. The absence of such conversations with children limits the possibility of meeting the norm of considering the best interests of the child, because the child's right to speak based on age and maturity is a legal right.

The staff in my study generally said little about the visibility and accessibility of the CWS, but one assistant claimed that the threshold was high for sending notes of concern to the CWS and that they were perceived as 'scary' (Midtskogen, 2022, p. 117). One of the ECEC teachers I spoke to confirms Backe-Hansen's findings about insufficiently accessible CWS but has knowledge about children and parents she has acquired through conversations with and observations of them. This ECEC teacher performs her work in a different way than her colleagues and in a way that contradicts what Haugset et al. (2015) found about a lack of competence in child and parent conversations among their informants. The ECEC teacher I spoke to is personally involved and does not feel that assistance from the CWS necessarily has unfortunate consequences for the family. Quite the opposite, it is precisely such assistance that parents may find useful. She thus also acknowledged what parental cooperation may look like in situations that can lead to notes to the CWS, as Nilsen (2013, p. 159) asks for knowledge about. The ECEC teacher described a practice that shows an approach to the family where she used evidence-based judgement and gave clear and open reasons to parents, cf. the principle of objectivity and the principle of prudence. In addition, she safeguarded the legal security of children and parents, cf. the legality principle, the privacy principle, the principle of freedom of information and the contradictory principle. These administrative principles provide guidelines for how professional practitioners and welfare agencies should manage their power. Ideals of equal treatment and participant-oriented communication are central when the principles are complied with. Sound management practices are in line with Habermasian ideals of coerciveness, equalisation and equality (Eriksen & Weigård, 1999), but these will never be included as absolutes because children have the right to protection from neglect, violence and abuse.

The ECEC institution's mandate means that it has a responsibility for universal, selective and indicative preventive work. This is intended to prevent problem development in children and families at risk. If the parents do not consent to an indicative assessment of their child, the staff must nevertheless make an assessment and, if necessary, discuss issues with other services to clarify what the needs are and who has the most appropriate mandate to investigate these further. Families' needs for assistance must be solved locally with as little intrusion as possible and should follow the requirement to consult relevant knowledge within a decision-making process, such as the mapping process.

National and international research shows that there is too narrow an understanding of what the need for assistance is for children and families in a child welfare context (Connell-Carrick & Scannapieco, 2006; Pelton, 2015, p. 31; Ljones et al., 2019). A narrow understanding would be, for example, an understanding of the care situation as limited to the psychological attachment between child and parent. In a broader and more complex understanding of the family's need for assistance, stress factors in life, such as a lack of social integration, challenging living conditions and the parents' mental health, as well as the connection between a failing care situation and low income, will be factors that attention is directed towards. This is internationally established knowledge about factors related to risk, protection and the development of resilience (Bonanno & Diminich, 2013; Rutter, 2012, 2013).

Knowledge about neglect, violence and abuse is part of the professional knowledge base for ECEC teachers and is something they must prevent, discover and manage information about. The municipal CWS is both an important discussion partner and a partner regarding concerns and possible needs related to deficiencies in the care situation, cf. the Kindergarten Act (2005, Sections 18-2, 46 and 48). The ECEC institution's assessment of the seriousness of concern for a child will depend on the quality of the screening process. High-quality mapping is necessary to contribute to knowledge about what problems consist of and how extensive they are. The ECEC institution's duty to be aware of circumstances that may lead to measures by the CWS (the Kindergarten Act, 2005, Section 46) includes advising parents about the services provided by the CWS and assisting in establishing contact. The ECEC institution's mapping and cooperation with parents may be part of a route towards the CWS and other support agencies, such as family counselling services, at an early stage for the family when the problems are likely to have a limited scope. In the cases concerned, documentation from the mapping of the child and family within the ECEC institution's mandate may provide important knowledge when the CWS investigate the situation more closely to safeguard the family.

To prevent the development of problems that are difficult to manage in the family, the cooperation between ECEC institutions and the CWS based on a knowledge of resilience will be important for the child and the parents, because both organisations will help the family to deal with challenges. The family is dependent on the presence of people who have skills that can help them to develop good mental, physical and social child health

despite the perceived risk, that is, that the children develop resilience and receive support in development and change processes. The early efforts of ECEC institutions are important in this context.

The ECEC institutions' and the CWS's positive perception of each other is important if the ECEC institution is to meet the requirement for the duty of attention on matters that may lead to measures by the CWS (the Kindergarten Act, 2005, Section 46). This duty entails a requirement for ECEC institutions to inform parents about the municipality's CWS and its ability to provide support to the family. When the municipal administrations have been given overall responsibility for preventive work for children, young people and families, with the intention that help should primarily be provided locally, such administrative responsibility may provide opportunities to redistribute the efforts from the CWS to other services, cf. what Fauske, Bennin and Buer describe in Chapter 1, 'Children, Family, and State: Changing Relationships and Responsibilities', about the responsibility of all services to help children strengthen relationships in their daily lives and network.

Conclusion

The ECEC institution's mapping is legitimate by virtue of the Kindergarten Act's (2005) guidelines to help reveal whether children are living in a situation that may lead to measures taken by the CWS. Analyses of the data material in the study on which this chapter is based (Midtskogen, 2022) show, in the context of deliberative theory, that both the quality and legitimacy of mapping processes can be strengthened through greater openness and clarification at the start and completion of mapping at a selective or indicative level. Mapping can be strengthened as a decision-making process through more involvement of the affected parties. It is conceivable that both legitimacy and quality can be strengthened by the ECEC institutions and the CWS becoming better acquainted with each other, where in particular the ECEC institutions' duty of attention as part of an individual orientation to the principle of the best interests of the child (the Kindergarten Act, 2005, Section 46), that is, informing parents about the CWS as a body and what measures it can offer, becomes clearer among staff and parents.

Since the municipalities have an overall responsibility for preventive work aimed at children, young people and families, ECEC institutions can be included as a relevant partner for children and parents. The mapping

that takes place in ECEC institutions and the documentation that accompanies it can provide a natural route to the CWS's measures where the scope of problems may be relatively limited, and where the family and the CWS can establish contact with other services to clarify which of them can most adequately contribute the help the family needs.

My own research and that of others shows that a strengthened collaboration between ECEC institutions and the CWS is valuable for facilitating children and family resilience processes at an early stage and preventing the development of serious and complex problems (Fauske et al., 2016; Fauske et al., 2017; Rittel & Webber, 1973). Viewing ECEC mapping at a selective or indicative level as a decision-making process, as is customary in the CWS, can contribute to early cross-sectoral efforts to prevent the development of a serious and complex scope of problems for families.

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Bjørg Midtskogen is associate professor at Inland Norway University of Applied Sciences, Department of Social Work and Guidance. In her PhD thesis (2022), she examines to what extent children's perspectives are taken into account in kindergarten mapping. Her former work experience is mainly from the Office for Children, Youth and Family Affairs (Bufetat), particularly in matters related to children's and families' situations, parental guidance, and the Family Group Conference decision model, and as an advisor in the Municipal Educational Counselling Service.

References

Antonovsky, A. (1979). *Health, stress and coping.* Jossey-Bass Publishers.

Backe-Hansen, E. (2009). *Å sende en bekymringsmelding – eller la det være? En kartlegging av samarbeidet mellom barnehage og barnevern* [To send a note of concern – or leave it? A survey of the cooperation between ECEC and CWS] (NOVA Notat 6/09). Norsk institutt for forskning om oppvekst, velferd og aldring. https://hdl.handle.net/20.500.12199/5158

Baklien, B. (2009). Skole, barnehage, barneverntjeneste: Bilder av «de andre» hindrer samarbeid [School, ECEC, CWS: Images of 'the other' obstruct cooperation]. *Norges Barnevern, 86*(4), 236–245. https://doi.org/10.18261/ISSN1891-1838-2009-04-03

Bonanno, G. A. & Diminich, E. D. (2013). Positive adjustment to adversity – trajectories of minimal-impact resilience and emergent resilience. *Journal of Child Psychology and Psychiatry, 54*(4), 378–402. https://doi.org/10.1111/jcpp.12021

Børhaug, K., Brennås, H. B., Fimreite, H., Havnes, A., Hornslien, Ø., Moen, K. H., Moser, T., Myrstad, A., Steinnes, G. S. & Bøe, M. (2018). *Barnehagelærerrollen i et profesjonsperspektiv: Et kunnskapsgrunnlag* [The role of the ECEC teacher in a professional perspective:

A knowledge overview]. https://www.regjeringen.no/no/dokumenter/barnehagelarerrollen-i-et-profesjonsperspektiv--et-kunnskapsgrunnlag/id2621274/

Children Act [Barnelova]. (1981). *Lov om barn og foreldre* (LOV-1981-04-08-7). Lovdata. https://lovdata.no/dokument/NL/lov/1981-04-08-7?q=barnelova

Christiansen, O. (2015). Hvilken hjelp til hvilke problemer? En nærstudie av barnevernets hjelpetiltak [What help for what problems? A study of child welfare assistance measures]. In O. Christiansen, E. Bakketeig, D. Skilbred, C. Madsen, K. J. S. Havnen, K. Aarland & E. Backe-Hansen (Eds.), *Forskningskunnskap om barnevernets hjelpetiltak* (pp. 64–89). Uni Research Helse, RKBU Vest.

Connell-Carrick, K., & Scannapieco, M. (2006). Ecological correlates of neglect in infants and toddlers. *Journal of Interpersonal Violence, 21*(3), 299–316. https://doi.org/10.1177/0886260505282884

Constitution of the Kingdom of Norway. (1814). (LOV-1814-05-17). Lovdata. https://lovdata.no/dokument/NLE/lov/1814-05-17?q=grunnloven

Eriksen, E. (2018). Democratic participation in Early Childhood Education and Care – serving the best interests of the child. *Nordic Early Childhood Education Research Journal, 17*(10), 1–15. https://doi.org/10.7577/nbf.2319

Eriksen, O. E. & Weigård, J. (1999). *Kommunikativ handling og deliberativt demokrati – Jürgen Habermas' teori om politikk og samfunn* [Communicative action and deliberative democracy – Jürgen Habermas' theory of politics and society]. Fagbokforlaget.

Fauske, H., Lichtwarck, W., Bennin, C., & Buer, B. A. (2016). Tverrfaglig samarbeid i barnevernets beslutningsprosess [Interdisciplinary cooperation in CWS decision-making]. In Ø. Christiansen & B. H. Kojan (Eds.), *Beslutninger i barnevernet* (pp. 178–194). Universitetsforlaget.

Fauske, H., Kvaran, I., & Lichtwarck, W. (2017). Hjelpetiltak i barnevernet: Komplekse problemer og usikre virkninger [Child welfare assistance: Complex problems and uncertain effects]. *FONTENE Forskning, 2*(10), 45–58.

Fimreite, A. L., & Grindheim, J. E. (2007). *Offentlig forvaltning* [Public administration]. Universitetsforlaget.

Haugli, T. (2002). Det mangfoldige barnets beste [The best interests of the diverse child]. In K. B. Sandberg & V. Hagstrøm (Eds.), *Bonus pater familias: Festskrift til Peter Lødrup* (pp. 313–325). Gyldendal Akademisk.

Haugset, A. S., Nilsen, R., & Haugum, M. (2015). *Spørsmål til barnehage-Norge 2015* [Questions for ECEC-Norway 2015]. Trøndelag Forskning og Utvikling.

Kindergarten Act [Barnehageloven]. (2005). *Lov om barnehager* (LOV-2005-06-17-64). Lovdata. https://lovdata.no/lov/2005-06-17-64

Kjørholt, A. T. (2005). The competent child and 'the right to be oneself': Reflections on children as fellow citizens in an early childhood centre. In A. Kjørholt, P. Moss & A. Clark (Eds.), *Beyond listening: Children's perspectives on early childhood services* (pp. 129–150). The Policy Press.

Ljones, E. H., Hollekim, R., & Christiansen, Ø. (2019). Råd og veiledning som tiltak i barneverntjenesten: Utviklingsstøtte for barn eller standardisering av foreldreskap? [Advice and guidance as an intervention in the CWS: Developmental support for children or standardisation of parenthood?] *Tidsskriftet Norges Barnevern, 96*(3), 152–170. https://doi.org/10.18261/ISSN.1891-1838-2019-03-03

Lyngseth, E. J. (2020b). Kartlegging av språk og kommunikasjon [Mapping of language and communication]. In E. J. Lyngseth (Ed.), *Kartlegging av barns språk i tidlig alder* (pp. 47–66). Gyldendal.

Lyngseth, E. J. (2020c). Kvalitet i kartleggingsarbeidet [Quality in the mapping work]. In E. J. Lyngseth (Ed.), *Kartlegging av barns språk i tidlig alder* (pp. 67–77). Gyldendal.

Læret, O. K., & Skivenes, M. (2016). Kvalitet og legitimitet i barnevernets beslutninger [Quality and legitimacy in CWS decisions]. In Ø. Christiansen & B. H. Kojan (Eds.), *Beslutninger i barnevernet* (pp. 34–47). Universitetsforlaget.

Midtskogen, B. (2022). *Kartlegging av barnehagebarn: En empirisk studie av hvordan kartlegging inngår i barnehageansattes praksis og om de tar hensyn til barnets perspektiv* [An empirical study of how mapping is included in the pedagogical practice of ECEC assistants and teachers, with a focus on whether and to what extent this process takes into account the children's perspectives] [PhD dissertation, Inland Norway University of Applied Sciences]. https://hdl.handle.net/11250/3025255

Nilsen, A. C. E. (2013). Når barnehagepersonalet melder bekymring til barnevernet [When ECEC staff report concerns to the CWS]. In E. Marthinsen & W. Lictwarck (Eds.), *Det nye barnevernet* (pp. 142–160). Universitetsforlaget.

Norwegian Directorate for Education and Training. (2017). *Framework plan for kindergartens: Contents and tasks.* https://www.udir.no/laring-og-trivsel/rammeplan-for-barnehagen/

Norwegian Directorate of Health. (2022). *Samarbeid om tjenester til barn, unge og deres familier* [Cooperation on services to children, young people and their families]. https://www.helsedirektoratet.no/veiledere/samarbeid-om-tjenester-til-barn-unge-og-deres-familier

Norwegian Ministry of Children and Equality. (2017). *Official Norwegian Report (NOU) 2017: 12. Svikt og svik: Gjennomgang av saker hvor barn har vært utsatt for vold, seksuelle overgrep og omsorgssvikt.*

Oterholm, I. (2003). Deltakelse og beslutninger i barnevernet [Participation and decisions in CWS]. *Nordisk sosialt arbeid, 23*(4), 217–223. https://doi.org/10.18261/ISSN1504-3037-2003-04-04

Pelton, L. H. (2015). The continuing role of material factors in child maltreatment and placement. *Child Abuse & Neglect, 41*, 30–39. https://doi.org/10.1016/j.chiabu.2014.08.001

Rittel, H. W. J., & Webber, M. M. (1973). Dilemmas in a general theory of planning. *Policy Sciences, 4,* 155–169. https://doi.org/10.1007/BF01405730

Rutter, M. (2012). Special section article. Resilience as a dynamic concept. *Development & Psychopathology, 24*, 335–344. https://doi.org/10.1017/S0954579412000028

Rutter, M. (2013). Annual research review. Resilience – clinical implications. *Journal of Child Psychology and Psychiatry, 54*(4), 474–487. https://doi.org/10.1111/j.1469-7610.2012.02615.x

Schanning, E. (1993). *Kommunikative maktstrategier* [Communicative strategies of power]. Spartacus Forlag.

Sommer, D., Samuelsson, I. P., & Hundeide, K. (2013). Early childhood care and education: A child perspective paradigm. *European Early Childhood Education Research Journal, 21*(4), 459–475. https://doi.org/10.1080/1350293X.2013.845436

Taguchi, H. L. (2015). *Hvorfor pedagogisk dokumentasjon?* [Why educational documentation?]. Universitetsforlaget.

United Nations. (1989). *UN Convention on the Rights of the Child.* https://www.regjeringen.no/no/dokumenter/the-un-convention-on-the-rights-of-the-child/id601078/

CHAPTER 6

Narrative Identities in Children as Next of Kin. A Qualitative Interview Study

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Abstract: This chapter explores how childhood and family experiences influence identity and self-understanding. Thirty-two interlocutors from 12 to 32 years old have shared their stories of living in, and growing up in, a troubled family in a conduct-of-everyday-life qualitative interview. All were children as next of kin to parents with substance use disorders and mental health problems. The stories were analysed in terms of self-defining memories and characteristic imagoes.

The interlocutors present themselves mainly as an agentic changemaker, as one being drawn into the parents' problems, or more or less deliberately distancing themselves from the parents' problems. At an early age the story is still open, undigested and in the making, as is the narrative identity. The mismatch between the unique family and the cultural norm is seen as a potential resource for self-understanding.

Keywords: narrative identity, family, children as next of kin, COPMI, parental mental health

> Even in the absence of others, we learn about our-
> selves by imaginatively listening to our own thoughts
> through the ears of the other. At the beginning of life,
> we need a witness to become a self.
>
> (Stern, 1989)

> They always ask what is wrong with you and hardly
> ever ask what happened to you.
>
> (Bentall, 2016)

Introduction

We tell stories about who we are, and we live by the stories that we tell (McAdams & Adler, 2010). Stories create order, meaning, and connection between events. The creation of narratives from lived experience is a central activity of identity formation. It involves the integration of what one has experienced in the past with both present and future selves (Marin & Shkreli, 2019). A well-integrated autobiographical narrative contributes to a sense of self-coherence (Stern, 1985). The story about who we are is rarely a precise recollection of facts, but rather an edited, interpreted, and co-created autobiography. The individual is not the exclusive creator and author. From the very beginning of life, parents and significant others inscribe their understanding onto what will become the child's autobiographical memory narrative, with surrounding cultural rules and values intertwined.

This chapter is about the development of identity and self-understanding. Based on stories from adolescents and young adults about growing up in families with parental substance addiction, mental illness, and child protection concerns, I will explore how these circumstances leave traces in the offsprings' stories about themselves, their narrative identity.

Children as next of kin

Children of parents with mental health or substance use problems are referred to in the literature as COPMI (Children of Parents with Mental Illness) or young carers, with the emphasis on role reversal through taking care of their own parents and performing adult chores. They are also named *children as next of kin* with an additional focus on legal rights, vulnerability, and support needs. In Norwegian legislation (Helsedirektoratet, 2010)

children as next of kin were first defined as those with parents suffering from serious mental or somatic illness or addiction, or those who had experienced the sudden death of a parent. Later, the definition was expanded to include being the sibling of a chronically ill child, and having an incarcerated parent. In this chapter, I write about children growing up with parental illness and/or substance addiction.

Children as next of kin used to be an invisible group. In the last two decades these children have received increased attention in research, social and clinical work (Gladstone et al., 2011). In many countries, including Norway, which is the context of this study, children as next of kin are given legal status and rights (Helsedirektoratet, 2010; Everts et al., 2022).

Three literature reviews have summarised research on children as next of kin. Gladstone et al. (2011) found that children who were considered actively involved in their parents' lives valued this involvement. However,

> some children chose to 'opt out' of their relationships with their parent to act more independently. This strategy to 'preserve a sense of self' was posited as putting children at risk for behavioural problems associated with flawed 'attachment' to their parent. (p. 1136)

In Dam and Hall's (2016) meta-analysis, the overarching theme 'navigating in an unpredictable daily life', illustrated how children manage the family condition, develop an inner compass, and find their way of being and behaving on good and bad days. As part of the navigation, children often cover up and conceal what they fear to be outside the norm, and learn what can be told and what cannot. This leads to invisibility, and the children's needs often go under the 'radar' of teachers, child protection services (CPS), and other potential help (Dam & Hall, 2016).

Yamamoto and Keogh's (2018) review categorises four dimensions of research findings relating to: a) children's understanding of parental mental illness; b) children's relationship with parents; c) coping strategies; and d) the social connections of children, describing the importance of friends and other trusted adults, but also an increased risk of isolation and stigma.

In general, the reviewed literature confirms the extra burdens, needs, and developmental risks associated with being a child as next of kin. Williams (2021) identifies a lack of adequate empirical knowledge about the child's point of view, which represents a weakness in the knowledge base. There has been little research examining how individuals make sense of

trauma, and how it relates to identity development (Marin & Shkreli, 2019). Many of the reviewed studies did not disclose an explicit theory or conceptual framework to support their design and analysis procedures, making it difficult to judge how assumptions about mental health and illness, and about children, influenced the research findings (Gladstone et al., 2011).

The present project is part of the COPMI research tradition, with an emphasis on clarifying and exploring theoretical concepts and assumptions. It addresses the weak parts of the evidence base, as it aims to shed light on COPMI's identity development and meaning-making from their own perspectives. This is expected to contribute to improved understanding of the significance of family and parents for children's identity development and well-being.

A narrative theoretical perspective

Cultural psychology and the concept of narrative identity form the theoretical background. In this context, *narrative* refers to a basic cognitive, linguistic form and activity, through which individuals seek to organise and create meaning (Mishler, 1986). In cultural psychology, narratives are considered to be a conceptual tool to understand how cognition, feelings, action/agency, and perception work together, and integrate human experience in the form of storylines (Harré & Moghaddan, 2012). Of particular importance are those narratives that form our lives and self-understanding, those that integrate time, place, relationships, thought, feelings, body experiences, and actions (Harre & Moghaddam, 2012). Describing one's childhood is describing the time and context, especially the family, of growing up. It is a fusion of personal, parents', and others' interpretations of what happened, moving between inner experience and outside events.

Narrative identity can be described as an internalised story you create about yourself. It is a person's storied understanding of self, as situated across the reconstructed past and the imagined future (McAdams & McLean, 2013). McAdams and Adler (2010) see identity as a story, a myth that integrates talents, needs, beliefs, values, goals, important memories, and important roles. 'Self-narratives act to shape and guide future behaviour, as people act in ways that agree with the stories or myths they have created about themselves' (McAdams, 1985; Maruna, 2001). A well-integrated identity provides the individual with a sense of coherence over time and across situations, of being meaningfully situated in the social

context and ecology of the adult world (p. 38). Conscious reflection on the self and the formation of identity emerge with the cognitive, self-reflective capacities in adolescence (Habermas & Bluck, 2000). A flexible narrative process characterised by the generation of specific imagistic memories (memory specificity), and a process of linking recollected experiences to the conceptual structures of the self (meaning-making), is proposed to be a key to psychological health and well-being (Singer & Conway, 2011).

Importantly, the immediate experience can differ largely from what is said and told. 'If the lived past and the narrated past are very discrepant … story making can establish and perpetuate distortions of reality' and cause harm to well-being and a distorted or false self (Stern, 1990, p. 136). Some experiences, especially those involving shame, embarrassment, fear, and threat may never be shared, or put into words, assumedly leaving them in the shadows of memory, fragmented, unclear, and poorly inscribed into the self-narrative.

Myths are created not only about oneself, but also about what family and parents are. Bruner (1990) describes dominant myths as *canonical cultural narratives*. These are broadly agreed upon normative truths and moral obligations in the form of narratives about the way things are or should be (Bruner, 1990). These cultural narratives are transformed into meaning-making and everyday practices. More than anything else, Bruner argues, family practices are formed by, and mirror, common cultural values and ideas. When family life is in step with cultural narratives, no storytelling or explanations are needed. Family and everyday life happen without thinking about them. However, deviations from the expected create the need to explain. 'The function of the story is to find an intentional state that mitigates or at least makes comprehensible a deviation from the canonical cultural pattern' (Bruner, 1990, p. 50). Growing up in families with severe psychosocial burdens deviates from the norm, and hence triggers the need to seek explanations and pull things together into a comprehensible story.

Childhood adversity and identity formation

Childhood adversity can disrupt the normative identity process, since it complicates identity work by 'challenging core beliefs and assumptions about the self, family, and the world' (Janoff-Bulman & Frantz, 1997). Especially traumatic events force individuals to confront and engage in meaning-making efforts. The social, interpretative, meaning-making

efforts are, over time, woven into how one situates oneself in the world and the social hierarchy, how one tends to see relationships, what can be said and done, and so forth. Beyond conscious, cognitive meaning-making, we are influenced by: routines and common events; the general social atmosphere at home; how feeling states were induced and dealt with; smells, sounds, and movements that together constitute the complex landscape of childhood. Novelist Hoem (2013) wrote, 'Childhood is not a time; it is a landscape'.

Studies of narrative identity generally look for *self-defining memories* or key autobiographical scenes, vivid and often emotionally charged episodes from the past. Of great intertest is how the self-*imago* is represented within these scenes (McArthur & McLean, 2013). An imago refers to an idealised personification of the self with certain traits, roles or capabilities, which serves as a main character in the story. Self-defining memories and imagoes are fundamental units of narrative identity (Singer et al., 2012).

The main aim of this chapter is to explore the significance of family in identity formation and self-narratives. The overarching research question is: How is narrative identity influenced by being next of kin to parents with mental health or addiction problems? Sub questions are:

1. What are key self-defining memories and characteristic imagoes in the narratives?
2. How do they deal with discord between cultural norms of parenting and family, and what happened in their own family?

Methodology

The present chapter is part of a larger research project on children as next of kin, with a qualitative design, and in-depth interviews as the main method. As research data, stories are treated as the personal and subjective account of events and experiences, not representations of objective reality.

Participants

The original dataset, collected between 2015–2017, included stories from 32 participants, 28 females and 4 males, from 12 to 32 years old. All were next of kin to parents with mental health and/or addiction problems. They were recruited through the treatment institution of their parent,

from NGOs working with children, user organisations, or self-recruitment after receiving information.

Interviews

The interviews were tailored to elicit autobiographical memory narratives about everyday family life (Jansen & Andenæs, 2019) with questions like: What was a normal day like? Can you walk me through it? Interviews lasted between 40 to 90 minutes and were conducted either in the researcher's office, another public service office, or the home of the interviewee. The interviews were *thematic life stories,* as they circled around the topic of growing up with parental substance addiction and mental illness (Koski-Jännes, 1998).

Analysis

Interview transcripts were reanalysed guided by the theory of narrative identity, cultural narratives, and the concepts of self-defining memories and imagoes. A deductive content analysis (Kyngäs & Kaakinen, 2019) was used to test the usefulness of these key concepts to gain insight into how family influence narrative identity. A deductive content analysis is considered useful when the researcher wishes to reexplore existing data with new categories, concepts, models, or hypotheses (Marshall & Rossman 1995). First, each interview was read to get the overall storyline, and the characteristics of the teller. Second, the transcripts were analysed in a deductive approach guided by the above theory and concepts into a structured matrix using a Miro board text analysis template (https://miro.com).

Ethical reflections

The topic of the interviews was sensitive, personal, and could reactivate negative feelings and reactions. Measures were taken to provide professional support for participants if needed, for example, access to counselling or mental health services. Most of the informants expressed a motivation to contribute to the research, hoping it could make things easier for others in a similar situation. The project was approved by the regional ethics committee ensuring informed decision to participate, written approval from parents when participant was under 18, and full freedom to withdraw from participation with no need to explain why. To ensure anonymity,

identifying features are deleted and names changed in the results presentation. The number after the name is the age when interviewed.

Findings

The results are presented in a storied format – in line with the narrative approach of the project. First, I share some findings that were remarkable across the interviews. Then, I present various types of narrative content and imagoes, and discuss how these can be linked to self-defining memories and the significance of parents and wider family.

Identities in the making

The interview transcripts from the youngest informants, between twelve and sixteen, reveal identities in the making. They are still in the landscape of childhood, with little distance to what they have experienced as self-defining memories. For example, Bjørn-14 talked about the influence of his father's drug problem and how he just disappeared for a long time, and how Bjørn believed he was either dead or had left him forever. Talking about it seemed to trigger emotions – he became tearful and found it hard to talk. Past is still present and undigested. What happened had hardly been spoken about. The interview dialogue indicates that his meaning-making is still in process. A short excerpt:

> Did you get the information that you needed?
> *No, almost everything.*
>
> What is your advice to adults in a similar situation?
> *Explain everything – most of the time.*
>
> Do you want to tell your dad how you were feeling?
> *No, I think he knows how I was doing. I don't know.*

Similar, somewhat floating, indecisive, even internally contradictory narrations were found in other transcripts as well. Stine-15 described her violent father: 'He was absolutely not the mean one. I mean, he wasn't …, he is not a …, he should not be seen as the big, bad wolf, – even if he was'. She also said that 'We kids were always first priority', without noticing, at least not

reflecting on the fact that most of the content of her story is about falling outside the caring attention and priority of the parents.

In early adolescence one has just started to reason about self and life in abstract terms (Erikson, 1968). The self has barely emerged as an entity for abstract speculation that can be explored from a psychological distance. Although the coming into being is most evident in the youngest age group, those in late adolescence and early adulthood are also actively working on getting a grasp of what happened, how they were influenced, who they are, and want to become.

Sofie-24 remembered as a young child, 'The only thing I have heard is that …, mainly in a humorous way, that I was a hothead when I was little'. In her teenage years she recalls feeling 'terribly lonely, very insecure with low self-esteem'. Yet, she was perceived as mature and independent, and through the intervention of the child protection services (CPS) in her mid-teens, she got her own apartment and lived alone. 'That independence … why was I so independent, and how could I present myself totally different from how I felt inside?' she reflected. 'I was rather clever at putting on a face.' As a young adult, she successfully filed a legal compensation complaint against the CPS for not intervening to protect her earlier. At the time of the interview, she was studying to be a social worker, actively collecting, and putting pieces of her childhood together to create a coherent self-narrative to live by.

Vague and missing memories

Like many of the other participants from all age groups, Bjørn-15's feelings, questions, and experiences were rarely spoken of by the adults close to him. When, in young adulthood, Sofie-25 wanted to understand more of her childhood, she discovered that she remembered very little. Memory is vague or lacking. Sofie-25 said:

> What I have talked about today is just a tiny, tiny little picture, right? There was so much more than this that I don't remember. I cannot remember … any routines like that, and I remember very little of my feelings, and I can't remember any routines.

Then she corrects herself and thinks that it could be that she remembers, 'but I think it will take quite some effort for me to get access to … to it'.

The ordinary, what was frequently occurring in the family slipped the attention of narrative working through and coding into memory. Just as

Bruner argues, that when things are in-step with cultural norms, they become invisible, taken for granted. In a similar vein, what is established as normal within a family is not necessarily noticed or talked about. In Sofie's words: 'You may not notice the unusual things, right, because it is so usual to you. It is … – it is your life'.

The invisible child

Connected to the previous topic of missing memories is the character or imago of the invisible child. In many cases, the child often fell outside the caregiver's attention. Mental health and addiction problems either occupied the mind of the parent, distorted it, or caused stress that spilled over onto the children. In addition, several of the childhood recollections are of actual absences, of unpredictability, and of intrafamilial conflict that left children's needs unattended. Hence, the intersubjective community, the experience of coming into being through a relatively stable awareness, and reflection of one's physical and inner states in the presence of the caregiver, what in Stern's theory of self-development is key to the narrative self, was often lacking or of poor quality.

> Loneliness – that is the word for my entire childhood. No rules, nobody who checked my homework, no hours to be home by. There was nobody who really noticed me. I just was. I just existed. But I wasn't there. I detached from everything to get through the day … (Susanne-28)

Sofie-25 too felt lonely and invisible. Puzzled by the fact that she could feel some positive excitement when her father was aggressive to the point that they had to seek refuge at the neighbours', she reflects, 'Now, in hindsight, I believe that that feeling of excitement was related to getting some sort of attention. That something happened that made me visible in one way or another'.

Invisibility also came from spoken and unspoken rules of not telling, and children's deliberate strategies to cover and hide the familiar problems. 'How on earth could the teachers know that I was suffering at home? I never showed anything to them. Really, I am not the kind of kid who sits in the classroom and weeps,' Stine-15 said.

Although many of the narratives had this feeling of being invisible within the family, they were not necessarily invisible to the outside world. Sofie felt painfully visible through the flaws of her family, the parents'

behaviour, the house, the clothes. She described a deep feeling of embarrassment, shame, and of being different. Others told how they were seen as problem kids at school and in the neighborhood:

> Yes, I was a problem kid with poor behaviour. But there is always a reason. Even if I couldn't express in words (what I had inside) I showed it with my behaviour, with all I owned and had. Even if you are deaf and dumb (stum), you show it. One just has to know what to look for. (Susanne-28)

Sofie, Stine, and Susanne exemplify what many of the other informants said. Their problems were not noticed, at least not acted upon by other adults. Even if others knew, they did not react.

Scapegoats, black sheep, and shit kids

'I sat there (expelled from class) screaming inside in silence,' Susanne said. However, feeling invisible and unheard could very well go together with the imago of a troublemaker, a shit kid. Gøril-18 felt that she was labelled as the problem and the black sheep of the family 'because I was always the one who had to go to treatment. It was like she [mother] dragged me to the mental health service to be assessed for this and that diagnosis'.

Many of the young informants, including Susanne, were diagnosed and treated for a mental illness, depression, anxiety, social withdrawal, conduct disorder, or ADHD. However, it was obvious to her, and to most after hearing her childhood story, that the problems were in her caregiving environment. She carried and exposed the burden of conflict, abuse, and failing child protection. Several express feeling stigmatised and worried about being mad. Gøril was puzzled, 'So I am the one who needs treatment'. She *hated* her mum for taking her to the psychiatrist. 'She used it against me. We had that quarrel, and she went like "Go and take your pill," and I just said, "Go and take one yourself," and left. Because she was on medication too.'

Like Gøril, many of the participants resisted their negative labels, but their self-understanding was influenced.

> Even I thought – I am crazy, abnormal. I am a problem kid. I asked my mum several times, 'Am I a problem kid since I am here (in treatment)?' And they went like – 'no, no, no'. And my mum went – 'Hah'.

This is a memory fraction with a detailed recollection of what was said, the facial expression and tone of voice. It appears like a very confusing answer to her very serious identity question. Some participants reported additional burdens from negative comments from peers, and being bullied at school. Gøril believed that the bullying was more damaging to her self-esteem than what happened at home.

Withdrawing into calm and safety

Anna-17's key autobiographical memories and scenes from her childhood are related to her parents' divorce and conflicts, her mother's mental illness, and how the family's poor financial situation restricted her childhood – and youth activities. She withdrew from social contacts and found a place to be in reading: '… so I kind of hid in my books. That was easier than relating to all kinds of other people'. She described how she always struggled to feel confident in social interactions. '… but all of us [siblings] became, yeah, kind of quiet and withdrawn people, I think ….'

Susanne withdrew into music:

> I listened to music and wrote poetry all day long. The texts hit me. I didn't bother with the melody; it was the lyrics that mattered. I dreamt myself to another place. I wasn't in the room but in totally other places where I could feel that things were better. I was seen by the music. The lyrics spoke to me, to me personally. I could feel that this text, of course this is me. The lyrics said things that I wanted to express, but I had nobody to say it to.

Whereas Anna defined herself as withdrawn and socially anxious as a general strategy and trait, Susanne moved between being social and outgoing, a troublemaker, an explorer, and being silent and withdrawn. Those who dived into music, books, sports, and nature did get a pause from parental problems. However, the stories indicate that they got more. They found other realities, other people, but also other reflections of themselves. Those chosen activities supplemented care, and provided something to grow from. Sven-19 found snowboarding, and discovered that he had talent, a talent that, together with a valuable coach, provided him with a new platform for developing self-esteem and identity.

Shameful

Sofie clearly remembered her deep embarrassment from her primary school graduation day. Her mum had disappeared, her elder sibling refused

to accompany her, and, reluctantly, her father came along. At the ceremony, she observed him lying about why the mother wasn't there.

> I remember that it was totally … to hear him lie, it was totally strange. I was so embarrassed, so shameful and embarrassed. He didn't …, I mean, all the other parents had on nice clothes, suits, and pretty dresses, and they were so proud, you know. But he, he didn't dress up, of course.

She remembers how she felt 'really worthless … in relation to the other kids and the other families. I went, and … no, it was horrible, a terrible experience'.

The recollection is filled with emotions, details, observations, and self-defining elements. She is in the role of the inferior and shameful, an imago of the outsider and underdog. Yet, she manages to attribute the embarrassment to her parents, and how they were family compared to the others. Shame stems from being associated with her parents, not primarily from feelings stemming from herself.

Susanne also felt the burden of the family. In a small society, the family name was associated with problems and stigma. All her siblings eventually changed their surnames, but Susanne referred to wise words from her mum: 'A name can't shame anyone – only your own actions'. Instead she actively sought to associate with her more respected relatives. She aimed to 'clean' and change the family name by being decent and doing good. A fighting spirit and survival strategy was induced by the repeated saying of her big mother-sister: 'You have to raise yourself up. Regardless of what happens, if you are beaten to the ground, you raise yourself up and continue walking'.

Caregiver, protector, and in-between

Stine-15 took the role of child-superhero and guard to protect her mum and little brother from their violent father.

> I was absent from school, eh … because I didn't sleep because I had to watch so they didn't quarrel and things like that. Not like I was awake and scared to death, but just keeping awake. And I struggled to eat … and things like that. Then, I had a period where I called mum up to fifteen times a day. To ask what she was doing, where she was, who she was with … just to watch in case she and dad had been fighting or something had happened.

Stine was on guard 24/7. She tried her best to calm the conflicts.

> So I just stand up in front of dad, … and I am not the kind of person who cries, … only when I get angry, then I cry. So, I stand there and say, 'Can you please leave? This is not nice, you are scaring your kids'.

Stine was literally standing in-between, in the heat of the parental fight.

Sandra-14 too was drawn into the parental and family problems in ways that made her feel older than her age.

> I have heard tings I shouldn't hear, known things I shouldn't have known. I have witnessed so many things in that house. And then, one of them (parents) talked to me, next the other explained, so I was kind of in-between.

Karl assumed the role of housekeeper and caregiver for his younger siblings, finding himself to be knowledgeable in things far beyond his peers: the daily special offers at the grocery store; what kind of detergent to use; and caring for a baby.

These are a few of many stories of role reversal, taking adult responsibility in a range of situations that would have been challenging for most adults, similar to what is well documented in the COPMI literature.

Older than their age

Like Sandra, several of the informants reported feeling older than their age. Anna-17: 'I was thinking more like an adult, at least more mature than my age. That made it difficult to relate to other children'. Sandra-14 also avoided talking with her friends because 'they are too immature to understand what I've been through'. Besides, 'they might pass it on to their parents and start rumors and everything. I have to shield my family'. They were also perceived by others to be older than their age. Gøril-18: 'I remember that she [the therapist] looked in her papers and said, I forget that you are only 12. You seem so much older. Okay, I thought, what does that mean?'.

At 15 Sofie moved out to live alone, a decision made by the CPS. Based on what she herself said, and her mother's and uncle's opinions:

> They believed that I was self-reliant and mature enough to live alone. Hmm, I shouldn't have done that, I almost said – in hindsight. This independence – why was I so independent, and what was the reason why I could appear so very different from how I felt inside?

This is a clear example of a discrepancy between what is said and how it is experienced, which according to Stern (1990) can distort self-development.

Agency and confrontation

These childhood narratives contained many instances of active involvement and interference to change the family situation. Rebecca's big sister confronted their mum with an ultimatum, 'Either you divorce our father or I will move out and bring my siblings with me. If you decide to stay, you will never see us again'. At that time my informant was one year old, her sister in her early teens.

Siv-30 described herself as a child trapped in the family. She too tried to convince her mother to divorce her alcoholic father, but did not succeed like Rebecca's sister did. After a while she refused to assist her mother in searching for hidden vodka bottles and filling them with water. Like in most of the stories, Siv distanced herself, she observed and reflected on her parents from a young age and laid plans for herself, while being immersed in, dependent on, and associated with the family. Besides dreaming of living alone with her mum, Siv dreamed about a holiday in Spain, like several of her peers had.

> My parents said we couldn't afford it. So, I had a notebook and calculated the amount and costs for the alcohol he drank and showed how we could easily afford a family trip abroad for that amount. Eventually, we went to Spain. It was a nightmare; he was drunk all the time.

Sofie-28 recollects a similar idea of confronting the parent with their problematic behaviour.

> One interesting event, one that I have thought about many times, was once when my dad was really drunk, talking nonsense and was totally hopeless. And … eh, so I decided that now I will record it to let him hear tomorrow how he behaves when drunk. So I did, but I never played it for him, I didn't dare. Next morning it was as if it had never happened.

The importance of family in narrative identity

We are family! All but one of her siblings are half or step siblings, but Gøril-18 emphasises the point that a sister is a sister, a brother is a brother. Like many of the informants, Gøril described a complex family situation.

> I have a rather big family, so to say. Lots of siblings, and mum, … lots of grandparents, and she just got married, so I have a new stepdad, and that's fine, I almost said. … all these mum's men; they have been my daddies. But the one, Jon, he is, has been more of a father than any of the others. So, I count him as more than a stepfather. He is part of the family, very much so.

Linda-17 expressed, 'Family is the closest and smallest society, so to say, that we live in. When something is not working there, you're very much affected'.

Families in flux

Parental problems often meant family instability. Many of the informants had to adapt to changing family constellations, mobility, and alternative caretakers. Karl- 26 illustrates the full range of instability in the other narratives, in his case crammed into one painful childhood narrative. Karl was born to a young mother with alcoholism. He was often left alone. From age two, he occasionally stayed with a foster family arranged by the CPS. At five Karl was moved to his grandparents. After three years the mother wanted him back into her growing family. Then 8-year-old Karl, for a year or so, lived with his pregnant mum, single and still drinking, and a toddler sibling. He became housekeeper and carer for his younger siblings -until he could not cope anymore and called the CPS. Karl was again moved to his grandparents. After a short stopover, he was placed with his father, whom he had never lived with and, according to Karl's story, everybody knew was unfit for parenting. After a while, a stepmother entered into Karl's paternal family unit. This took the boy on another move to a new place and school. Before reaching his teens, Karl had attended four different schools, and lived with five different primary caregivers and three half siblings.

Some of the informants with the most severe breaches in culturally expected, caring, stable family situations, expressed a loss of faith in a caring environment. 'Care makes me sick,' said Karl. Also, in other terms he tends to turn to the opposite, 'If someone says I am a warm person, I automatically think: No, I am cold,' as if the contradiction in what he needed and expected to get, and what he actually got, moved into his self as a template for understanding self and others.

Grandparents

In many of the stories, grandparents represented stability, and served some of their basic needs, including good food. Anna-17 described her grandmother as one who provided warmth, an orderly home, and a relationship to rest and feel good within.

> At grandma's it was …, things were kind of in order there. She always served me good food, and yeh … and she kind of had time to listen, and if I needed anything she just understood. So, I had a very good support-player in her.
>
>   It is, it, ah, was grandma, …. or, how can I say it, yeah, it was she who brought me up. But my mum is the one closest to me.

Stine-15's self-narrative and the story about her family are closely intertwined. Her grandmother is the thread that never breaks.

The chosen family

Some found their nurturing relationship outside the biological family. Karl's recollection of his stepmother is the sunny part of his story. It illustrates how these children as next of kin actively choose who they see as significant caregivers. Karl claims to have no space in his life for his father, and never thinks of his mother as a mother. 'She is just a person I have to relate to. We have a common history, one that is still ongoing. My stepmother is my mother.'

   Several informants choose a step parent over their biological parent, like Ken-21.

> There was another man, a really kind and nice guy. I used to spend the weekends with him. I believed he was my dad. Then, when I was around 16, he met a woman from abroad – and he disappeared. This really made me sad.

Gøril favoured her ex-stepdad over her biological father. 'I have thought of him [her father] as a person who … contributed to making me, in biological terms'.

   Susanne chose her big sister to be her real mother figure, even into adulthood. When deciding a professional career, she was influenced by her therapist.

> I've been thinking a lot about her since I started to think about what to become. I want
> to be a Sigrun to those who haven't yet had a Sigrun in their life. I have difficulties in
> trusting people, but when I first find trust, that trust is blind. She was a person like
> that. Her care for me – she saw me. It felt real, she honestly loved me, was honestly
> concerned about me. She didn't pretend.

With Sigrun she was able to talk about what happened in the family, the foster family, and at school for the first time. She was open and listened to her childhood experiences and became a co-author to her narrative, possibly also what Stern (1985) describes as an evoked companion. That means a representation of a relationship, a witness, an inner voice like – What would Sigrun have said or done? – similar to how parents' patterns of behaviour are internalised.

Gøril at 18, although embracing her big, complex family, speaks about her relatively fresh, Christian friends as the ones who restored self-confidence, acknowledge her, and feel like family.

Foster families

The children manoeuvered to manage and protect themselves and other family members from adversity. In some cases, problems surmounted their ability to cope, and child protection intervened and offered alternative caregivers. Leaving the family of origin proved to present new challenges. In a meeting with the CPS, Jens was asked what kind of family he would like to stay with, with children of their own, having a pet, etc.? Jens got the sense of being on the verge of a new life.

> Suddenly, I could choose what kind of family I wanted. It's a strong memory.
> I returned home, went to the bathroom, and while I was peeing, I asked myself: Is
> this the last time I am peeing in this toilet? Will I be leaving soon? Is everything over
> now? What if I never see my brothers again? Never see my mother again – because
> I had ruined our relationship – that felt heavy.

The most mundane of all routines and places, going to the toilet, evoked questions that resonated through his whole existence. He felt nervous at the thought of leaving all things known and familiar. Who would Jens be without his family? Who would he become with a new family? Like in many stories, the bliss of the foster family was short-lived. Karl keeps in touch with the foster family from when he was two, 'but I was, – and still

am always a guest'. For some, foster care inflicted further damage. At first, Susanne felt in heaven and thought 'this is how it should be'. From seven to twelve, 'I was there all the time – it proved to be the worst thing that happened'. She was showered with loving attention and presents, which eventually turned into sexual abuse.

Discussion

Family is not always a haven of safety and nurturing care. Still, it is the base from where children grow and belong, a source of identity and understanding of self, others, and the world. They are immersed in the family, involved in its dynamics, and at the mercy of the adult world. They rarely disclose parents' problems, but rather defend and protect them. Some carry much of the burden of the parents' problems, sometimes as a scapegoat, like Gøril. Other times they are victims of the parents' aggression and misbehaviour, like Karl, or as the cause and object of the parents' conflicts, like Anna. The close relations within the family are impactful, even when the offspring distances him/herself, determined to be and behave differently from their own parents.

Navigating and coping with dissonance

The self-narratives vary between being an agentic changemaker, a child immersed and drawn into the parents' problems, or a withdrawn and distanced person. Yet, it is striking that most of the stories have elements of all three categories. Withdrawal and distancing could be passive, like retreating to your room or into your music or books. Or it could be very active and agentic, like fighting for the right to move out, or secretly applying to a school far away to escape. Obviously, more passive withdrawal and immersion were more prominent at a young age, whereas a more active distancing takes place at a later age.

Furthermore, while choosing books, music, or science were partly a way to get peace and maintain a sense of self, as Gladstone et al, (2011) described, it was also a rewarding choice of interest. They found alternative and supplementary niches to be and grow in, other sources of meaning and self-understanding. Children grow their identity from a large variety of sources.

Exposed to the problems of the adult world, these young people are forced to find ways to deal with it. Although, at a young age they take for granted the normality of their own family life and their parents' behaviour, they soon observe that the norms and behaviour in other families are different. The 'taken for granted' and 'awareness of differences' exist side by side.

Whereas much COPI research points out the extra burden of deviation from the cultural norm, I argue that the dominant cultural narrative also serves as a corrective, an alternative script for how things could be or should be. Although closed in various degrees, family life does not exist in a vacuum. Family, neighbourhood, school, and society are concurrent contexts for the child's development (Harkness & Super, 2021). Even if being different can be painful, the larger social expectations of care and family life are also resources for COPI. Cultural norms and the way other families work serve as a background, through which they can compare and evaluate the reasonableness of their own home context. Surrounding values, norms, and behaviour function as correctives to one's own experienced family normality, and hence prevent the child's identity from being absorbed by their own family. Becoming a self also involves identifying the not-me parts.

Role reversal and becoming young carers are well described in COPI literature, but there is less attention to how this influences identity. Through this project, I notice that the informants feel older than their age, and are often treated as older and more knowledgeable that they are. Their development into self-reliance and independence, and their ability to take care of others, are pushed and forced by the situation. They demonstrate post-adversarial growth and adaptational skills alongside their burdens and vulnerabilities. This comes with a risk of mismatch and contradictions in their self-understanding, like it is demonstrated in Sofie's reflection, 'How could I appear so independent when I felt so little and alone?'

Still searching for meaning

As young adults the meaning-making activity, and the construction of one's own narrative identity continues. Identity development through adolescence into adulthood appears like a challenging puzzle with lost, vague, and deformed pieces. The most challenging childhood experiences can thus remain unshared, unheard, unspoken. This is in order to protect oneself, to avoid exposing the parents unfavourably, and in fear of CPS intervention and removal from the family. Children downplay and conceal problems,

also because they feel ashamed for not being a normal family, for falling outside of what is expected and considered to be socially acceptable norms (Dam & Hall, 2018). In this study of narrative identity and childhood adversity, silence around the problematic aspects of family life leaves children on their own to make sense and build those parts of their childhood into their own self-narrative. Experiences that are unheard of are difficult to integrate into one's narrative identity, partly because they fall outside the imageable and unspoken (McAdams, 2010), which can explain the many dark holes in the narratives.

Sofie constructs herself as lonely and vulnerable, but also with agency and power, adaptable and caring, social while feeling lonely. Her multiple traits may challenge a sense of coherence. Her narrative was characterised by missing and unclear memories. Emotions were especially difficult to recall. She was actively searching for the pieces of her self-narrative. As a young adult she has moved into the role of helper, and demonstrates self-efficacy and communion. She is turning her childhood experiences into insights that can help others. Her narrative is complex, containing many themes, imagoes looking from various perspectives. It is flexible and alive, she is working to understand while she is telling, as if the discovery of her own past is ongoing. This research confirms the idea that the multiple paradoxes of identity are stretched between agency and subordination, unity and multiplicity, continuity and instability (Ragatt, 2019).

It is important to remember that the stories told in this project were influenced by the context and thematic focus of the interviews – on being next of kin to a troubled parent. This was an open autobiographical approach, like McAdams' life story interview (2015) might have produced. Nevertheless, these results and interpretations do not necessarily reveal the full picture of the narrative identity process of the participants.

Author biography

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References

Bentall, R. (2016, February 26). Mental illness is a result of misery, yet still we stigmatise it. *The Guardian*. Retrieved from http://www.theguardian.com/commentisfree/2016/feb/26/mental-illness-misery-childhood-traumas, published 26 February.

Bruner, J. S. (1990). *Acts of meaning*. Harvard University Press.

Dam, K., & Hall, E. O. C. (2016). Navigating in an unpredictable daily life: A metasynthesis on children's experiences living with a parent with severe mental illness. *Scandinavian Journal of Caring Sciences*, *30*(3), 442–457. https://doi.org/10.1111/scs.12285

Elo, S., & Kyngäs, H. (2008). The qualitative content analysis process. *Journal of Advanced Nursing*, *62*, 107–115. https://doi-org.ezproxy.inn.no/10.1111/j.1365-2648.2007.04569.x

Erikson, E. (1968). *Identity: Youth and crisis*. Norton.

Everts, S., van Amelsvoort, T., & Leijdesdorff, S. (2022). Mandatory check for COPMI in adult mental healthcare services in the Netherlands: A quantitative and qualitative evaluation. *Front Psychiatry, 13*, 807251–807251. https://doi.org/10.3389/fpsyt.2022.807251

Gladstone, B. M., Boydell, K. M., Seeman, M. V., & McKeever, P. D. (2011). Children's experiences of parental mental illness: A literature review. Experiences of COPMI: literature review. *Early Intervention in Psychiatry, 5*(4), 271–289. https://doi.org/10.1111/j.1751-7893.2011.00287.x

Habermas, T., & Bluck, S. (2000). Getting a life: The emergence of the life story in adolescence. *Psychological Bulletin*, *126*, 748–769. https://doi.org/10.1037/0033-2909.126.5.748

Harkness, S., & Super, C. H. (2021). Why understanding culture is essential for supporting children and families. *Applied Developmental Science*, *25*(1), 14–25. https://doi.org/10.1080/10888691.2020.1789354

Harre, R., & Moghaddam, F. M. (2012). *Psychology for the third millennium: Integrating cultural and neuroscience perspectives*. SAGE Publications.

Heyman, A. (2016). *Young and young adult carers' transitions to adulthood: The impacts of intergenerational mutuality, unequal reciprocation and intergenerational inequality* [Doctoral dissertation, University of Sunderland].

Hoem, E. (2013). *Heimlandet: Barndom* [Homeland: Childhood]. Oktober.

Jansen, A., & Andenæs, A. (2019). *Hverdagsliv, barndom og oppvekst. Teoretiske posisjoner og metodiske grep* [Everyday life, childhood, and growing up. Theoretical positions and methodological strategies]. Universitetsforlaget.

Koski-Jännes, A. (1998). Turning point in addiction careers: Five case studies. *Journal of Substance Misuse*, *3*, 226–233. https://doi.org/10.3109/14659899809053506

Kyngäs, H., & Kaakinen, P. (2020). Deductive content analysis. In H. Kyngäs, K. Mikkonen & M. Kääriäinen (Eds.), *The application of content analysis in nursing science research*. https://doi.org/10.1007/978-3-030-30199-6_3

Marin, K. A., & Shkreli, A. (2019). An examination of trauma narratives: Narrative rumination, self-reflection, and identity in young adulthood. *Journal of Adolescence*, *76*(1), 139–151. https://doi.org/10.1016/j.adolescence.2019.08.007

McAdams, D. P. (2015). Life story. In S. K. Whitbourne (Ed.), *The encyclopedia of adulthood and aging*. https://doi.org/10.1002/9781118521373.wbeaa141

McAdams, D. P., & Adler, J. M. (2010). Autobiographical memory and the construction of a narrative identity: Theory, research, and clinical implication. In J. E. Maddux & J. Tangney (Eds.), *Social psychological foundations of clinical psychology* (pp. 36–50). Guilford Press.

McAdams, D. P., & McLean, K. C. (2013). Narrative identity. *Current Directions in Psychological Science*, *22*(3), 233–238. https://doi.org/10.1177/0963721413475622

McAdams, D. P., Trzesniewski, K., Lilgendahl, J. P., Benet-Martínez, V., & Robins, R. W. (2021). Self and identity in personality psychology. *Personality Science, 2,* 1–20. https://doi.org/10.5964/ps.6035

McLean, K. C. (2008). The emergence of narrative identity. *Social and Personality Psychology Compass*, 2, 1685–1702.

Mishler, E. G. (1986). The analysis of interview-narratives. In T. R. Sarbin (Ed.), *Narrative psychology: The storied nature of human conduct* (pp. 233–255). Praeger Publishers/Greenwood Publishing Group.

Ragatt, P. T. F (2019). The self positioned in time and space: Dialogical paradigms. *Theory & Psychology*, *20*(3), 451–460. https://doi.org/10.1177/0959354310364206

Stern, D. N. (1985). *The interpersonal world of the infant: A view from psychoanalysis and developmental psychology*. Basic Books.

Stern, D. N.(1990). *Diary of a baby*. Basic books.

Williams, V. E. (2021). *Living with a parent with mental illness: Descriptions of caring, concealing and coping* [Doctoral dissertation, Grand Canyon University].

Yamamoto, R., & Keogh, B. (2018). Children's experiences of living with a parent with mental illness: A systematic review of qualitative studies using thematic analysis. *Journal of Psychiatric Mental Health Nursing, 25*, 131–141. https://doi.org/10.1111/jpm.12415

CHAPTER 7

Family Group Conferences and Discourse Ethics in Child Welfare Work

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Abstract: Family group conferences (FGC) in child welfare (CW) services is a working model that has received much attention since the early 2000s. The basic idea in the model is that the families themselves should find solutions to challenges in their children's care situation, so that professional CW workers act more as facilitators than decision-makers. In academic literature, FGC have been linked to discourse ethics – the idea that shared knowledge and arguments for and against alternative courses of action should underlie decisions, so that power relations and roles are downplayed. At the same time, the link between discourse ethics and FGC has not been discussed in depth. The aim of the chapter is to explore the link further. I first argue that discourse ethics is incompatible with FGC if CW workers use normative CW principles to lay down premises for what counts as 'good' courses of action or 'appropriate' information and arguments. However, FGC can be used in a more neutral way that better fits discourse ethical ideals. This can be done if legitimate use of power or professional intervention happens independently of the dialogue in FGC. In fact, this possibility is acknowledged in FGC guidelines that allow CW workers to set aside families' preferences if they conflict with principles of safety for children. I argue, more generally, that discourse ethics can often be an ideal for professional communication and cooperation in FGC. Discourse ethics can help prevent and solve conflicts, and help exploit the potential of dialogue towards agreement. At the same time, there are tensions between discourse ethics and some forms of CW work, which make it problematic to implement discourse ethics as a general ideal in FGC and other forms of communication with families.

Keywords: family group conferences, discourse ethics, participation, communication, rationality

Introduction

The family group conference (FGC) is a working model that is often used in child welfare work. It is a form of network meeting, organised as a structured dialogue between professionals and families about problems in their children's care situation. A basic idea in the model is that the 'extended family' should find solutions to care problems, and that they should experience ownership, motivation, and commitment to specific plans for how these solutions should be realised. Knowledge sharing, participation, and downplaying of power relations are considered crucial for the success of FGC (Thørnblad et al., 2016; Edwards & Parkinson, 2018; Bredewold & Tonkens, 2021).

In professional literature, these ideals in FGC have been linked to the idea that what the parties in dialogue can talk about on 'equal' terms should be important, as opposed to interests, roles, or professional ownership of justifications. The decision-making process itself should be implemented as a deliberative discourse, in which relevant information and arguments for and against relevant courses of action are central (Frost et al., 2012). These ideals are also central to philosophical discourse ethics (Metselaar & Widdershoven, 2022). It has therefore been argued that normative principles in FGC correspond to normative principles in discourse ethics (Eide, 2005, 2019).

The aim of this chapter is to explore the connection between discourse ethics and FGC in more detail. I do this in two ways. First, I argue that discourse ethics is incompatible with use of FGC that is saturated with normative interpretations of CW principles. Next, I discuss whether discourse ethics can fit into a more neutral use of FGC, as a model for facilitating deliberative communication with families and in families.

The chapter is a theoretical chapter falling under critical philosophy, and more specifically, applied ethics. Methodologically, the chapter uses conceptual analysis and critical discussion of texts and arguments as a form of philosophical method.

Family group conferences

FGC as a working model originates from New Zealand where it was developed in partnership with the Māori people, the country's native population. In the 60s and 70s, Māori children were overrepresented in child welfare services, and many children and young people were moved away

from their homes. The Māori people often perceived the child welfare services' interventions as a discriminatory practice, in which their values and views on family were not adequately considered. By including families and networks of the children in decision processes, solutions to problems in children's care situations became better grounded in shared understanding and agreement (Mcelrea, 1998; Frost et al., 2012).

Later, the model from New Zealand, which we know today as FGC, has been exported to a number of countries. The more specific design may vary, as may the name and characterisations of the model (Merkel-Houlgin & Marcynyszyn, 2014). However, the basic idea is the same: Professional CW workers should, first and foremost, be decision-making facilitators for children and their families (Thørnblad et al., 2016). In Norway, the use of FGC is specified in *Family Group Conferences: A Handbook for Municipal Child Welfare Services*,[1] published by the Norwegian Directorate for Children, Youth and Family Affairs (Bufdir, 2023a). The descriptions given in this handbook largely represent international understanding, and I will use them as a starting point.

The very basis of FGC is formulated in the handbook as an idea for involving children, their families, and larger networks as 'extended family':

> Family group conferences are a decision-making method intended to ensure that children, families and their extended networks are involved in the work of finding good solutions for the child. The goal is for the family to make a plan for how they can change the child's situation for the better. The child welfare service then prepares an action plan that supports the family's own plan. Family group conferences are a voluntary measure, and it is the family themselves or public employees who initiate the meeting. (Bufdir, 2023a)

An important goal is to secure involvement of the child and the family, and to give the child, the extended family, and the child's network increased participation and co-responsibility by using the extended family's own resources. Family group conferences have been associated particularly with the concept of empowerment – helping others to make more autonomous decisions and take control of their own lives. As Bredewold and Tonkens (2021, p. 2174) observe, FGC fall under the more general paradigm that

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1   The quotes from this handbook are my translation.

> Citizens are increasingly expected to be self-reliant and assume responsibility for their own care needs, as well as those of others close by. As family group conferences fit in well with these tendencies it is widely embraced by governments, committed social workers and (social work) researchers.

FGC in CW work, and social work more generally, have not only been regarded as a model that emphasises the significance of involvement. More fundamentally, the model is linked to the importance of respecting families' own right and ability to address challenges in their child's care situation, so that they gain 'ownership' of solutions that affect themselves and their own lives (Thørnblad et al., 2016).

Practical implementation

FGC can be used in different phases of a CW case. These may include issues such as mobilising people who can provide practical help in everyday life, finding a foster home for a child, emergency work, or work in institutions. The contextual details will vary in these situations, but the basic structure is similar (Bufdir, 2023a).

During the preparation phase, the background reasons for FGC should be described and communicated. The family must give an informed, voluntary consent to participate. Specific questions are then prepared for the family to answer. It is emphasised that 'the questions should focus on the child and youth, and should be aimed at finding solutions' (Bufdir, 2023a). The information and questions must be understandable to the family and relate to specific challenges in the child's care situation.

A coordinator who does not work in CW services, and who has no prior knowledge of the family, is engaged. The coordinator's tasks include contacting everyone who will participate, providing information, and preparing the practical aspects before the meetings. The coordinator shall be an independent person, whose task is to help families plan and implement the meetings and structure of FGC (Bufdir, 2023a, 2023b). The family should decide who will be part of the 'network' that will come together and discuss the care situation of the child.

The meeting itself is divided into three parts. In the first part, all participants are gathered for dialogue. The coordinator chairs the meeting, and CW workers and other professionals (if relevant) provide and clarify information about the child's situation. In the second part, professionals and the coordinator leave the meeting, and the family discuss the care

situation and answer the questions to be addressed. This should result in a plan with clear practical responsibilities for those involved in it.

In the final part of the meeting, the family's plan is presented to CW workers, who make a professional assessment of it. The plan must be realistic and the tasks and responsibilities clear, so that the CW workers can use it to prepare an action plan. Here it is worth noting that CW workers can intervene if the family's plan is incompatible with principles of protection: 'The case manager takes a position on the plan, and looks in particular at whether it safeguards the safety of the child/youth' (Bufdir, 2023a). As long as this requirement is met, the case manager will provide feedback that the plan has been accepted.

Discourse ethics

As long as the basic idea of FGC is that families should be involved, and that the goal is to find solutions that all parties can accept, it is interesting to compare the model with philosophical discourse ethics. The fundamental idea in discourse ethics is that human beings have a common ability to understand what is right and wrong, and that there will be agreement about this if dialogue follows certain principles of rationality (Benhabi & Dallmayr, 1990; Habermas, 1990; Metselaar & Widdershoven, 2022).

As Eide (2005, p. 133) points out, 'discourse ethics emphasises our ability to think sensibly and present factual arguments.'[2] In the discourse, the dialogue-based discussion, 'there should be nothing but the substantive weight of the argument that has an impact' (Eide, 2005, p. 129). The idea is that

> the reasons people involved have for their positions will be investigated further. Such an investigation asks what adhering to the norm in question leads to, what positive and negative consequences the norm has for all involved. (Eide, 2005, p. 125)

Here 'the norm in question' is not understood as a universal rule of action, as this type of ethical rule is central in some classical normative ethical theories, like rule utilitarianism. In discourse ethics, a norm refers to an action alternative – a specific description of how it is possible to act in the context of a discussion (Finlayson, 2005). The discussion of the norm

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2   Quotes from Eide are my translation.

should be based on a shared understanding, and open discussion of relevant arguments.

This does not mean that discourse ethics presupposes that the discussion must have a neutral starting point. Beliefs about what is right and wrong may form the basis for the dialogue. Such beliefs can sometimes be the norms to be tested, but they can also form the background for the dialogue without being tested, because (more) relevant norms are developed in the dialogue. What is important in discourse ethics is that dialogue both about which norms one should test, and the norms chosen to be tested, follow the principles of argumentation (Finlayson & Rees, 2023). It is only the strength of arguments that should be decisive (Steinhoff, 2009). This also means that participants should not have a hidden agenda for achieving a specific goal that serves their interests.

What is conceived to be tenable justifications for norms being tested can vary. Discourse ethics does not set out specific requirements for the actual content of ethical argumentation. It is the procedure that takes centre stage: 'The point is that everyone should be heard, all aspects of the norm should be on the table. There are factual requirements for the arguments' (Eide, 2005, p. 127). This means that no one should form beliefs based on 'external' pressure. Everyone should form as autonomous wishes as possible and be prepared to choose the most rational conclusions.

Two forms of rationality

In discourse ethics, it has been common to distinguish between two forms of rationality, which refer to two forms of understanding and improved ethical insight (Habermas, 1986).

Communicative rationality refers to processes in which communicators achieve a better and shared understanding of what they are talking about. The main aim is to understand other persons in dialogue, and therefore the meaning of language, as language is used by the different persons 'there and then'. When we are concerned with communicative rationality, we are, as Lauvås and Handal (2000, p. 141) point out, concerned with

> what we mean by what we say and do, whether we misunderstand each other, and if so, what the misunderstandings are, what we actually agree, and possibly disagree, on when we have come so far that we really understand each other. (My translation)

Critical rationality refers to the process of addressing and finding justified solutions to challenges and problems. The goal is to find new insights by examining one's own and others' points of view. Both relevant existing information, and new information should govern the process. This requires a willingness to accept that existing perspectives can be incorrect, to see new solutions, and to base actions on shared understanding. Logical understanding should bring the process forward, not personal interests or unchallenged practices or paradigms. This means that it is necessary to identify and critically address assumptions that are taken for granted, and also to consider information that weighs in favour of actions that are incompatible with pre-existing ideas.

Both with regard to communicative and critical rationality, the fundamental aim is to question established understandings and practices that may not be adequately rooted in knowledge and critical reflection on the best arguments. According to discourse ethics, if participants in dialogue share relevant information, understand each other, and achieve a common understanding of the strength of the relevant arguments, they will agree on the justification of the norms being tested. Basically, the idea is that since human beings essentially have the same logical understanding of what constitutes a good argument, participants in an adequate ethical discourse will also agree on what the best actions are (Steinhoff, 2009).

As with many other philosophical positions, there are different understandings of the details of discourse ethics (Gamwell, 1997; Finlayson, 2015). It would fall outside the limits and purposes of this chapter to compare the various understandings. For the present purposes, the important aim is to relate the basic ideas above to FGC.

Family group conferences and discourse ethics

Theorists who have been concerned with FGC and discourse ethics have observed that ideals in FGC for participation, influence, and open discussion have some striking similarities to the ideas in discourse ethics on 'equal' dialogue and shared understanding.

In particular, the basic idea in discourse ethics about informed and justified communicative agreement is also central in FGC. Fundamentally,

the idea is that CW workers should accept the family's plan (given the abovementioned qualifications) because, on the whole, they believe it is justified to follow the plan. The fact that the family has made the plan is formally the reason for approving it, but the family's ownership of the plan and motivation for implementing it is also part of the total argumentative basis for accepting the plan.

More specifically, a striking feature of FGC is that the model appears to be consistent with the abovementioned concepts of communicative and critical rationality in discourse ethics. In FGC, the dialogues should focus on finding 'good solutions' to challenges in the child's care situation – this is the 'factual issue' to be discussed. As shown, the model is based on principles of facilitation, information exchange, and principles of reasoning. There are no other substantive 'external' normative constraints on how families need to think and reason, except that an action plan must be prepared. The nature of the plan should emerge from the dialogues.

Obviously, CW workers have limited influence on some of the discussions among the members of the extended family. But the relevance of discourse ethics should not be connected to this. The relevance should rather be related to the professional possibilities, to how CW workers can do their best, in their communication with the family, to use and advocate discourse ethical ideals. And from this perspective it is natural to conclude, as Eide (2005, p. 133) does, that the use of FGC in CW work is a method development where we see 'lines between practice and discourse ethics'. The intention behind FGC is to facilitate practical and content-related conditions for good decision-making processes. 'The procedures must ensure that the views concerned are expressed, and that the chosen alternative appears to be the result of a process between the parties' (Eide, 2005, p. 133). As professionals, CW workers should provide factual information, and they can also set aside action plans if they involve too much risk to the child. Beyond this, CW workers should not provide normative action-guiding input in the process.

At the same time, the connections between FGC and discourse ethics have not been examined in more detail. This is where I want to contribute further in this chapter. I am concerned with two main questions. The first is how discourse ethics fits in with normative beliefs and interpretations of CW principles in FGC. The second is more generally how discourse ethics should underlie FGC, and similar symmetrical collaborative relationships in CW work.

Value principles in child welfare

It goes without saying that resource constraints and other practical factors can make it challenging to realise discourse ethical ideals in all social work. In FGC, limited time to give and ensure that a family understand relevant and sometimes quite complex information can be an obvious difficulty. But this kind of problem, related to practical implementation, is at least apparently, not a problem of principle. I will focus on a more fundamental philosophical question: How can the ideals of argumentative rationality in discourse ethics be compatible with CW work as a value-laden professional practice?

The fact that CW work is value-laden is not, in itself, something that distinguishes CW work from other forms of professional work with people. Different forms of professional work are governed by different (but also many of the same) values. What is special about CW work is its idiosyncratic values, and the fact that these values are so central. The principle of the 'best interests of the child' is the core. The basic task of CW workers is to find solutions for children that are best for them, as opposed to interests of other parties involved in a case. The principle is part of legal and ethical frameworks in different ways in different countries, but the basic idea relates to the UN Convention on the Rights of the Child, and in particular Article 3, paragraph 1, which states that 'In all actions affecting children, whether undertaken by public or private welfare organisations, courts, administrative authorities or legislative bodies, the best interests of the child shall be a fundamental consideration' (Ministry of Children and Family Affairs, 2023).

Within the fundamental consideration of the best interests of the child, there are other important value principles in CW work. The principle of protection is particularly important. For example, after the quote above from Article 3 of the UN convention, paragraph 2 further states that the bodies referred to in paragraph 1 'undertake to ensure to the child the protection and care necessary for the child's well-being'. A third principle discussed in the convention is the 'biological' right to family life. Paragraph 9 states the following:

> States' parties shall ensure that a child is not separated from his or her parents against their will, except when competent authorities, subject to judicial review, in accordance with applicable laws and procedural rules, decide that such separation is necessary in the best interests of the child.

As many of the chapters in this book illustrate, how principles like 'protection' and the 'right to be with parents' should be understood and balanced against each other in CW work has been much discussed. For the purposes here, it is not necessary to engage in this discussion. The point is that it is generally recognised that the principles should legitimately govern CW work as professional practice. But the principles are value concepts, elements of an ideological framework that CW workers should safeguard and realise. So how can this ideological dimension of CW work be compatible with the ideals of rationality in discourse ethics? This question is then also relevant in FGC. If normative interpretations of value principles influence communication between professionals and families, or lay down premises for what the family is 'allowed' to suggest as 'solutions' to 'problems' as CW workers have defined this, how can dialogue in FGC follow rational norms of reasoning like communicative and critical rationality?

Given the above description of FGC in CW work, the ideals of rationality can be undermined in several ways. One can imagine, for instance, that professionals' understanding of the care situation, which forms the basis for the meetings, is coloured by a strong preconception of what is best for the child. The care situation is basically the 'issue' to be discussed, so if information about this is clearly normative, the family can be pressured into a specific understanding already from the start, because they believe that they have 'no other choice'. Even apparent 'agreement' between CW workers and families on 'factual matters' or the relevance of 'problems' and 'questions' can be pseudo agreement, because the family do not, in fact, agree even though they say they agree.

And even if a family really agrees with a value-laden description of the care situation of the child, further dialogue can be influenced by this description in a way that does not match the norms of communicative or critical rationality. Value principles can influence the dialogues if the family are pressured to accept certain constraints on what constitute 'good' answers to the questions addressed, or 'good' practical plans for improving the child's care situation. This can happen if such constraints are based on a strong normative understanding of how the best interests of the child, or other child welfare principles, should be action-guiding. Professional communication can be angled towards a certain solution, so that information that supports other possible solutions is downplayed, or at worst, ignored. In that case, the requirement in discourse ethics that both pro and con arguments should be balanced rationally is not met.

The coordinator's role can also be crucial. As explained above, the coordinator is supposed to be neutral, but this is not necessarily so in real life. If the coordinator has a substantial preunderstanding of what constitutes a 'good solution', it can be challenging to fulfil the role as intended. The coordinator's communication may be of such a nature that a particular solution is implicitly favoured, and the coordinator is not necessarily aware of this. The coordinator may also have implicit ideas about who should be part of the 'extended' family, and how meetings should be arranged (so that there is an increased chance that the solution the coordinator prefers will be supported). Such ideas may influence the family's decision. If so, the coordinator actually contributes to undermining discourse ethical principles.

On the whole, there are many possible ways in which normative beliefs about what is best for the child can influence communication in FGC. It is important to emphasise that the extent to which this happens is an empirical question. Here I am more concerned with a fundamental point: *If* normative beliefs about what is best for the child dominate the communication – whether they are interpretations of child welfare principles or have other sources – then it is difficult to see how FGC can be compatible with discourse ethics. Note, however, that this is a conditional. It does not imply that the model necessarily is incompatible with discourse ethics.

A main reason why this is an important point is that one can try to avoid the above problems by defining discourse ethics as a communicative ideal. Someone who wants to defend the legitimacy of discourse ethics in FGC might accept that it is very challenging, and perhaps impossible, to fully realise the demanding norms of communicative and critical rationality. But one can still suggest that CW workers should realise them as well as realistically possible.

Understood in this way, discourse ethics can be relevant to CW workers' understanding of how FGC should be implemented, in the sense that CW workers can do their best to ensure that alternatives of action – the discourse ethical norms of action – are discussed according to the principles of discourse ethics. Likewise, discourse ethics may seem relevant in communication that can stimulate the family to think critically about possible action alternatives and justifications for these alternatives. This possibility of keeping strong normative interpretations of what is best for the child out of the dialogue itself is, in fact, acknowledged in the abovementioned guidelines on conclusions of FGC (Bufdir, 2023a). As shown, CW workers

must assess whether the family's plan conflicts with the child's safety, so that the plan can be set aside if that is so.

So why not think of this as a more general possibility – that discourse ethics is used and 'advocated' as an ideal in dialogue with the family, as well as is realistically possible?[3] This suggestion is compatible with the above argument that a very normative use of FGC fits in poorly with discourse ethics. It is also compatible with the view that there is always some normativity involved in the overall use of FGC. Discourse ethics is consistent with this, if it is the dialogue that is the important thing, and since the norms to be tested are relevant even in the dialogue. But are there still any principled tensions between FGC and discourse ethics, no matter how one tries to use discourse ethics as well as realistically possible?

Roles and knowledge power

A first possible problem, no matter how discourse ethics is used as a model for family group conferences or other 'symmetrical' network meetings and collaborative communication, is that CW work is based on the constitution of positional roles and asymmetrical power relations. Will not this be concealed in an unacceptable way if CW workers seek to realise discourse ethical ideals of dialogue?

Obviously, achieving 'equal' argumentative dialogue with families can be a significant challenge. But it is not obvious that this has to be concealed from families, or that discourse ethical ideals should be set aside. That is, it is far from clear that the concepts of communicative and critical rationality cannot be an explicit goal of professional communicative practice in FGC. Professionals can use the concepts, and they can encourage and contribute to helping families discuss the questions to be addressed in accordance with them. And discourse ethics does not presuppose that the participants in decision-making processes have the same arguments or positions in the first place. Who provides information and arguments is not decisive. It is how the information and arguments are discussed and given weight that matters.

Of course, CW workers and other professionals have their views on what it is relevant to convey about the child's actual or possible care situation.

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3   Note that a working model can be used as an ideal even if it is not possible to fulfil the ideal fully. This is a relevant point here, since it is a good question whether it is possible for professionals (and families) to avoid being normative at all in communication.

How the family perceive the child's care situation and possible changes from their idiosyncratic perspectives can be very different. But such differences in perspective are not really crucial within a discourse ethical approach. It is not possible to say in advance that information from some persons is more important than information from others. Discourse ethics implies that what is relevant emerges 'there and then', as relevant to the contextual action alternatives that are addressed. The only thing required is that the information can be conveyed, in a language communicators have a sufficiently similar understanding of. Meeting this communication condition can sometimes be challenging. But again, it is not a problem of principle.

It would therefore also be unjustified to claim that discourse ethics is unable to recognise the importance of 'special' knowledge that professionals have. This knowledge can play a crucial role. But neither 'professional' knowledge nor the 'private' knowledge families have, if it is correct to make this distinction at all, has an *a priori* advantage. Discourse ethics is inconsistent with the assumption that it is possible to define one kind of knowledge as most important, independently of a given dialogue. But this assumption is by no means obviously correct.

Discourse ethics can, more generally, incorporate the very important fact that CW work is contextual, that child care problems are complex, and that it is often necessary to think comprehensively by taking many different perspectives into account (Munroe, 2008; Devaney & Spratt, 2009; Munroe et al., 2017). It would therefore also be inconsistent with discourse ethics to claim that a specific type of scientific knowledge, such as research-based knowledge (in some sense), should have a special privileged status in FGC. Discourse ethics is flexible with regard to which 'academic' considerations and 'issues' are important in FGC. Even different beliefs about language meaning can be subject to deliberation – as long as there is a communication channel (and this can even involve interpreters). How a linguistic expression is to be understood may be discussed in the spirit of communicative rationality.

Power and requirements for protection

What about situations in which CW workers believe that it is impossible to accept families' solutions? As shown above, the FGC model allows CW workers to set aside families' action plans if they threaten principles

of safety. Similarly, the coordinator has a 'duty to report in special situations' (Bufdir, 2023b). The coordinator must notify CW workers if information emerges indicating the necessity to take immediate action to stop ongoing serious neglect, such as physical violence. These possibilities acknowledge that it can sometimes be justified to act paternalistically – to do something against the family's expressed wishes. So does this not mean that discourse ethics does not really fit with the basic ideas of FGC after all?

But this objection is also unconvincing. First, in cases of paternalism, it will always be a good question as to whether the previous dialogue has been adequate – whether the potential for good communication towards shared understanding has been exploited in the spirit of discourse ethics. Second, and more importantly, discourse ethics does not imply that paternalism is always unjustified. The reason is that discourse ethics is compatible with restrictions of choice and autonomy that are common in applied ethics (Wulff et al., 1990). Consider as a rather extreme example from a rather different area a psychotic person, who has cut himself severely so that he is about to bleed to death. A discourse ethical approach will not, obviously, recommend that one should sit down and discuss at length arguments for and against action alternatives with this person. If possible, the bleeding should be stopped against the person's expressed will, to avoid very serious negative consequences.

There are, more generally, two factors that govern justified judgments of paternalism in legal and ethical frameworks. The first is how autonomous others' expressed wishes are. The second is what the negative consequences will be of letting others act in accordance with their wishes, and what the risk of these consequences is. As with other ethical traditions, proponents of discourse ethics can hold that the more a person has lost, or not acquired the ability to make autonomous choices, and the greater the negative consequences of letting the person decide for himself are, the more justified is paternalism.

There can of course be disagreement between CW workers and families about the 'harmful' consequences an action alternative can have. But this does not mean, obviously, that CW workers should always accept the family's plan when there is disagreement about this. And proponents of discourse ethics can accept this as well. What they will insist on is that when there is time and opportunity to secure dialogue in accordance with the norms of rationality, this should be tried as well as possible, before more power-laden communication is considered. In a reasonable sense,

discourse ethics fits in well with the principle of least intervention, and the idea that unnecessary use of power should be avoided. But the context in question must make dialogue appropriate.

At the same time, some might argue that the very idea of FGC as a working model is based on the idea that professionals have the 'final word'. And should not CW workers always be entitled to conclude how CW principles should be weighted in a given case? Some might argue that if the principles of discourse ethics are used in FGC, then they should be used in all kinds of dialogues with families, and that this undermines the professional autonomy of CW workers in an unacceptable way. Discourse ethics is, after all, a general position.

It is true that discourse ethics is incompatible with the idea that CW workers should have decision power in general. But independently of this, we must ask how justified that idea is. It seems more reasonable to argue that CW workers should, as well as realistically possible, try to communicate with families in ways that can lead to informed agreement. Giving priority to this kind of communication is in the spirit of discourse ethics. Furthermore, discourse ethics implies that professional input can play a dominant role in decision processes. But that is because it turns out to be rational to do so, not because the input is professional per se.

Remember also that when paternalism seems justified, the professional goal should normally still be to try to communicate with families, to create a better shared understanding and possible revision of judgements. This can work both ways – it can also happen that CW workers revise their initial judgement. Families and children are experts on their lived lives, and can present information that radically changes professional understanding. Thus professional views on what is harmful to a child can change in light of information provided by parents or children.

Even the philosopher Aristotle, who was concerned with *phronesis* – practical wisdom as a form of developed ethical competence, would argue that families' judgements can be just as important as those of CW workers. It is not given in advance, before meetings with CW workers, that professional judgements on the best interests of the child are more 'correct' than the judgements of family members. This is so, even when the judgements are expressed by parents who have been thought to provide inadequate care for their children.

Obviously, a professional judgment can often be more 'formal' than a family's judgment, in the sense that it is more explicit, and typically

grounded in various considerations related to documentation, law, and CW principles. But the extent to which a justification is articulated in language is not the crucial point for Aristotle. He believed that phronesis is a form of ethical understanding, which cannot be fully reduced to explicit justification in language (Aristotle, 2012). So even when a family does not present a systematic justification for why an action alternative should be chosen, their justification can be just as valuable as a formal justification.

This does not mean that there should not be a focus on arguments in discussions of a child's care situation. It is an important point, for Aristotle too, that justifications for ethical judgements can and should be formulated as well as realistically possible (Burnyeat, 1980). In a discussion where judgements contradict each other, the aim is to clarify what can be formulated in language and explanations, so that communicators, as well as possible, can achieve a shared understanding. Understood like this, the Aristotelian analysis of phronesis is not only a perspective that is consistent with basic ideas in discourse ethics. It can also help to explain how discourse ethics can be used as an ideal in FGC – for clarifying as much as possible – even if one accepts that the ethical justifications cannot be fully expressed in language.

The limitations of discourse ethics?

I have argued that discourse ethics is more flexible than one might think. Discourse ethics can incorporate the fact that professionals and families often meet each other with very different but equally 'valid' horizons of understanding. In fact, even if a family does not want to discuss a specific issue, this 'meta view' is something one can attempt to discuss argumentatively.

Nevertheless, there is a limit to what can be accepted as discourse ethical communication. Saying that communication is discourse ethical if one wants it to be discourse ethical is to take the expression 'discourse ethical' on holiday, as the philosopher Wittgenstein would say. It becomes a term with no real content in our common language. What clearly does not fit in with discourse ethics are situations where it is unwise to use the concepts of rationality to discuss what is right and wrong. An example from CW work can be a conflict situation where communication is so emotionally laden that there may be a risk of unrestrained behaviour. In such situations,

using principles of de-escalation and safety for professionals (or others) can be crucial in the dialogue.

More generally, relational communication is often important in CW work. This is communication that aims to establish and secure adequate relations for dialogue. During the start of FGC, it might for instance be necessary to make families feel more secure, in order for them to be fully able to grasp and digest information given by the professionals. The goal thus becomes something other than aiming for communicative and critical rationality.

This, however, does not constitute a fundamental objection to using discourse ethics in FGC. Discourse ethics does not imply that all communication should match discourse ethical principles. Just as professionals need to be paternalistic in some situations, it will sometimes be appropriate to give priority to relational communication. What discourse ethics implies is that when an appropriate relational context has been created, then it is relevant to focus on arguments and alternative courses of action. And relational communication can help create a good context for dialogue.

At the same time, discourse ethical dialogue can itself strengthen and secure communicative relations. More information about a child's care situation can sometimes make families feel more secure and less anxious about possible interventions. Relational communication is therefore not just communication in which professionals express virtue ethical attitudes like respect, sympathy, and kindness. Conveying good explanations and listening to family narratives can also be crucial. This can be so, even when dialogue seems difficult. The potential for discourse ethical argumentative dialogue towards agreement can easily be underestimated, also in situations where there is conflict and risk of significant negative consequences for the child. Very often there is something that all parties can agree on, so that professionals can use this as a platform for trying to achieve a more comprehensive shared understanding and agreement about decisions.

Value preferences

I have so far found no objections in principle to using discourse ethics as a communication model for decisions processes in FGC, and other forms of 'symmetrical' dialogue. I end this chapter by briefly considering what I think might be a more fundamental problem.

I have emphasised how CW work is value-laden, and this works both ways. Conflict situations where families' value preferences contrast with CW workers' assessments are not uncommon. And in such situations there seem to be limits to how rational dialogue can solve the conflicts. The reason is that, contrary to thoughts and beliefs, value preferences are not true or false (Wallace, 2005). It is not possible to show persons, by giving rational arguments, that their values are false. Value preferences are direct attitudes towards practices – to what Wittgenstein (1998) calls 'ways of living'. Value preferences can be individual – a person can, in principle, have a value preference without anyone else having it. But people often experience more entitlement to their value preferences when they are rooted in a community, and perceived as social capital. Value preferences that very many people share, such as those incorporated in the human rights convention, are normally considered to have a very strong normative force.

In one important sense, FGC as a working model can accept value pluralisms along all these dimensions. A family's action plan developed towards the end of the process can be shaped by individual, cultural, or general values that do not correspond to personal or system based values that CW workers have. But CW workers can only, as shown above, interfere with the family's plan if it conflicts with the specific value principle of safety for the child. Other plans should be respected.

However, values related to ways of living, such as religious practices, understanding of care, or forms of upbringing can also surface in the earlier communicative processes in FGC. Values can shape the information given, choices made, and other forms of verbal and nonverbal communicative acts of all parties. Therefore, if families' values are fundamentally different from the values professionals lay down as 'premises', then this communication does not seem to match the rationality ideals of discourse ethics. In terms of value preferences, there is no common truth or rational agreement to be found – nothing rational to accept as objectively correct descriptions. This is also the case in strongly value-laden communication in FGC.

At the same time, it would be unreasonable to claim that all dialogue shaped by value preferences falls outside the realm of rationality. Values often rest on beliefs that may be subject to discussions of truth. More information about the nature of a possible action alternative can lead to revised judgement – a family can think of the alternative as more valuable than what they did. For example, misunderstood beliefs about what 'after-school care' is, or what 'homework help' at school entails, can sometimes

be corrected so that parents begin to see these activities as more valuable than they did before. Value preferences can change if the beliefs they are grounded in change.

However, using such informative communication is not always a promising approach. Sometimes value preferences are, to a very limited extent, based on beliefs. Value preferences can be directly related to what Wittgenstein (1953) calls 'language games' or other practices. They can be rooted in actions, or desired actions if it is not possible to act in accordance with one's own value preferences, without resting on a set of thoughts or beliefs.

This suggests that there is at least one fundamental tension between discourse ethics and FGC. Views expressed by families (or professionals) in FGC can be based on value preferences grounded directly in practices. Then there are no beliefs or thoughts to discuss as true or false, no 'rational arguments' that can create agreement. When this is so, it seems problematic to use discourse ethics as a normative framework for dialogue. Typical examples might be situations where key aspects of families' horizons of understanding of their children are deeply rooted in cultural frameworks that differ radically from professional understanding.

Consider a family who has a practice of punishing their children that is culturally conditioned, and that this practice conflicts with what CW workers believe is acceptable. If FGC is used to focus on the care situation of the children, discourse ethics implies that CW workers should attempt to communicate in a balanced way – about facts, possible consequences, and other relevant matters – so that the family is led into an informed position and is encouraged to consider relevant arguments. But if the family's practices of punishment are directly grounded in their way of living, and not based on beliefs and thoughts that can be shown to be incorrect, then there is little hope that information will lead the family to 'rationally understand' that their practices are wrong.

Conclusion

I have argued that discourse ethics does not fit in with dialogue in FGC if normative beliefs about children's care situation dominate the dialogue. But this does not imply that discourse ethics is incompatible with all dialogue in FGC. If one thinks of the core of FGC as a process, in which informed arguments for and against alternatives for action should be at the centre,

then this is also the basic idea of discourse ethics, both within communicative (understanding) and critical (problematising) rationality. A number of practical limitations can make it challenging to fulfil these norms of rationality. But using them can still be a professional ideal in many communicative contexts. The potential and benefits of informed argumentative reasoning can easily be underestimated.

This does not mean that discourse ethics can or should be used as a normative framework in all communication between CW workers and families. In some situations, like escalating conflict situations, it may be necessary to communicate in other ways than what discourse ethics recommends. The second and major limitation is more principled: Situations in which judgements are heavily influenced by value preferences may simply fall outside the domain of rationality.

It should be emphasised that the arguments in this chapter have been tentative. Discussing connections between discourse ethics and FGC in more detail falls outside the present scope. The aim has been to explore connections to a greater extent than has been done in the academic literature. It is possible to explore them further, and I have presented some initial arguments, which may serve as points of departure for further analyses.

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Referanser

Aristotle. (2012). *Aristotle's Nicomachean ethics*. University of Chicago Press.

Benhabi, S., & Dallmayr, F. (1990). *Is the ethics of the ideal communication community a utopia?* MIT Press.

Bredewold, F., & Tonkens, E. (2021). Understanding successes and failures of family group conferencing: An in-depth multiple case study. *The British Journal of Social Work*, *51*(6), 2173–2190. https://doi.org/10.1093/bjsw/bcab062

Bufdir. (2023a). *Familieråd – en håndbok for kommunal barnevernstjeneste* [Family Group Conferences: A handbook for municipal child welfare services]. Familieråd – en håndbok for kommunal barnevernstjeneste | Bufdir.

Bufdir. (2023b). Koordinator i familieråd [Coordinator in family group conferences]. Koordinator_A5.indd (bufdir.no)

Burnyeat, M. (1980). *Aristotle on learning to be good: Explorations in ancient and modern philosophy.* Cambridge University Press.

Edwards, D., & Parkinson, K. (2018). *Family group conferences in social work: Involving families in social care decision making.* Polity Press.

Eide, S. B. (2005). Diskursetikk [Discourse ethics]. In S. B. Eide & B. Skorstad (Eds.), *Etikk: Utfordring til ettertanke i sosialt arbeid* (pp. 121–135). Gyldendal Akademisk.

Eide, S. B. (2019). Etikk i barnevernet [Ethics in child welfare]. In I. Studsrød, V. Paulsen, I. Kvaran & K. Mevik (Eds.), *Barnevernspedagog: En grunnbok* (pp. 66–77). Universitetsforlaget.

Finlayson, J (2005). Discourse ethics I: The discourse ethics of morality. In J. Finlayson, *Habermas: A very short introduction* (pp. 76–91). Oxford University Press.

Finlayson, J., & Rees, H. (2023). Jürgen Habermas. In *Stanford encyclopedia of philosophy*. https://plato.stanford.edu/entries/habermas/

Frost, N., Abram, F., & Burgess, H. (2012). Family group conferences: Context, process and ways forward. *Child & Family Social Work*, *19*(4), 480–490. https://doi.org/10.1111/cfs.12047

Gamwell, F. (1997). Habermas and Apel on communicative ethics: Their difference and the difference it makes. *Philosophy & Social Criticism*, *23*(2), 21–45. https://doi.org/10.1177/019145379702300202

Grimen, H. (2004). Samfunnsvitenskapelige tenkemåter [Ways of thinking in social science] Universitetsforlaget.

Habermas, J. (1986). *Moral consciousness and communicative ethics.* MIT Press.

Habermas, J. (1990). Discourse ethics: Notes on a program of philosophical justification. In *Moral consciousness and communicative action*. MIT Press.

Mcelrea, F. (1998). The New Zealand model of family group conferences. *European Journal on Criminal Policy and Research*, *6*, 527–543.

Merkel-Houlgin, L., & Marcynyszyn, L. A. (2014). The complexity of fidelity in measuring system change: The case of family group decision making. *British Journal of Social Work*, 45(2), 724–736. https://doi.org/10.1093/bjsw/bcu092

Metselaar, S., & Widdershoven, G. (2022). Discourse ethics. In *Encyclopedia of Global Bioethics* (Vol. 1).

Ministry of Children and Family Affairs [Barne- og familiedepartementet]. (2023). FNs konvensjon om barnets rettigheter [UN Convention on the Rights of the Child]. 178931-fns_barnekonvensjon.pdf (regjeringen.no)

Munroe, E. (2008). *Effective child protection.* Sage publications.

Munro, E., Cartwright, N., Hardie, J., & Montuschi, E. (2017). *Improving child safety*. [CHESS working paper]. Centre for Humanities Engaging Science and Society. Philosophy Department, Durham University. https://durham-repository.worktribe.com/output/1122926/

Steinhoff, U. (Ed.) (2009). The justification of discourse ethics. In *The philosophy of Jürgen Habermas: A critical introduction* (pp. 78–180). Oxford University Press.

Thørnblad, R., Strandbu, A., Holtan, A., & Jenssen, T. (2016). Family group conferences: From Maori culture to decision-making model in work with late modern families in Norway. *European Journal of Social Work*, *19*(6), 992–1003. https://doi.org/10.1080/13691457.2015.1086727

Wallace, R. (2003). Introduction. In J. Raz & R. Wallace (Eds.), *The practice of value* (pp. 1–12). Oxford University Press.

Wittgenstein, L. (1953). *Philosophical investigations.* Blackwell.

Wittgenstein, L. (1998). *Culture and value.* Wiley-Blackwell.

Wulff, H., Pedersen, S. A., & Rosenberg, R. (1990). *Philosophy of medicine.* Blackwell.

Aadland, E. (2005). *Etikk for helse- og sosialarbeidarar* [Ethics for health- and social workers]. Det Norske Samlaget.

CHAPTER 8

As Beings, Children Need to Be at Home

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Abstract: Building upon the philosophical insights of Martin Heidegger and Gaston Bachelard, this chapter delves into the essence of what it truly means for human beings to have a home and inhabit it. It explores how this understanding can shed light on the experiences of children who are removed from their homes and transferred between various child welfare institutions. In conclusion, the chapter advocates for a humanistic approach that recognises the existential meaning of having a home. By embracing this perspective, the author argues, we can develop a practice that is better suited to providing the necessary support for children who can no longer live in their childhood homes.

Keywords: home, existential meaning, child protection, poetry

Introduction

In June 2014, a fifteen-year-old girl named Ida intentionally set fire to the child welfare institution where she lived, resulting in its complete destruction. Three years later, in July 2017, another fifteen-year-old girl named Stine fatally stabbed a young woman at a shopping centre in southern Norway. Both girls were under the care of Norwegian child welfare services and both had experienced frequent transitions between various institutions before the tragic incidents. Ida had lived in six different institutions from January to June 2014, while Stine had been moved eleven times among different institutions from January to July 2017.

The aim of this chapter

The tragic incidents had a profound impact on both child welfare professionals and the wider public in Norway, raising questions about the operation of the child welfare system. In response to these concerns, official reports were commissioned to investigate underlying causes and extract lessons for child welfare services (County Governors in Hordaland, Rogaland and Troms, 2016; County Governor in Aust and Vest Agder, 2018). These reports, authored by the regional county governors responsible for the areas where the girls resided, provided a comprehensive examination of various aspects of the girls' care situations. They assessed factors such as the adequacy of care provided, the girls' opportunities for participation, the use of coercive measures, documentation procedures, governance structures and the effectiveness of leadership. The findings from these investigations ultimately revealed that Ida and Stine had not received proper care. Several contributing factors were identified. These factors included disregard for the girls' legal rights, the absence of well-established routines, incomplete diagnoses and deficiencies in the treatment approaches employed.

The aim of this chapter is to offer an alternative perspective on the underlying causes of the tragic incidents. Based on the girls' frequent transitions between various institutions, I will explore what it truly means for human beings to have a home and inhabit it. In this exploration I will turn to the phenomenological and hermeneutic traditions, with a particular emphasis on the inseparable relationship between individuals and the places they inhabit. This perspective challenges the idea of place as merely a physical location or a material backdrop for social interactions. Instead, it asserts that

places form the very foundation upon which human existence takes shape. Consequently, my focus lies in understanding the ontological significance of having a home, transcending mere empirical considerations.

This chapter is divided into four sections. The first section starts with a phenomenological exploration of the intricate relationship between humans and their environment, drawing on insights from the German philosopher Martin Heidegger. Heidegger emphasises that the world is more than just a collection of objects at our disposal; instead, it is a complex network of relationships that imbue our existence with meaning.

The second part delves into how children relate to a particular place: their childhood home. Here, I draw upon the thoughts of the French philosopher Gaston Bachelard, who argues that the essence of human existence lies in the feeling of being 'at home' and that children develop their self-understanding and perception of the world through their experiences, memories and use of physical spaces within the places they inhabit.

Both Heidegger and Bachelard have faced criticism for presenting an idealised and nostalgic view of home that might not fully capture the harsh realities faced by many individuals, including children like Ida and Stine. However, the focus of this chapter does not centre on that critique. Instead, my aim is to use Heidegger's and Bachelard's insights to gain a deeper understanding of the potential consequences of the many transitions the two girls experienced, shedding light on why their lives took such tragic turns.

In the third part of this chapter, my inquiry takes a further step by incorporating the concept of 'non-places' from the French anthropologist Marc Augé (1995) and the concept of 'unhomeliness' from Heidegger (2010). Augé's term 'non-places' refers to transitional spaces like shopping malls, supermarkets, petrol stations and airports. Heidegger's notion of 'unhomeliness' refers to the disorientation and anxiety that can arise from losing connection with a stable and familiar place. Together, these concepts help me to further examine the implications of Ida's and Stine's frequent transitions and to understand why setting one's residence on fire, and killing another person with a knife, might have been experienced as the only possible way to act.

Ida and Stine are not the only children in the Norwegian child welfare system who have gone through numerous transitions. According to a report by the Norwegian Ombudsperson for Children in 2020, many children and adolescents within the child welfare system experience this.

An investigation conducted by the Norwegian newspaper *Aftenposten* revealed that from 2020 to 2021, a total of 261 children living in child welfare institutions were moved 2,000 times. On average, these children stayed at each location for only 60 days (Moland, 2022). In the final part of this chapter, I delve into the practical ramifications of my analysis and how it can impact the work of child welfare services towards *all* children who can no longer live in their homes. This discussion highlights the necessity for a shift towards a more humanistic approach in child welfare services, one that recognises the existential aspects of children's lives. In this way, the article contributes to a broader discussion that is taking place within Nordic welfare research, focusing on the imperative need to rehumanise health and social services (Hansen et al., 2023; Kroken, 2018).

Being always entails being somewhere

What, then, does 'place' mean on an existential level, and why do I claim that this concept holds such a fundamental significance in our understanding of what it means for human beings to have a home and inhabit it?

In Heidegger's philosophy, a central question is what it means for humans to exist and how the fact that we are 'here' matters to us. In one of his major works, *Sein und Zeit* (*Being and Time*), first published in 1927, Heidegger (2010) argues that human beings are special kinds of beings in that they have a relation to their own existence. They are the only beings that ask the fundamental ontological question of what it means to be. He refers to this special mode of existence as 'Dasein', or 'being there'. In doing so, he indicates that there is a relationship between being and place.

For Heidegger (2010), the concept of being is always intertwined with our presence in a specific location. In our daily lives, we exist in an environment that includes not only ourselves but also other people and material objects. It is through an active engagement and involvement with these human and non-human elements that we interpret and understand ourselves. It is crucial to note that Heidegger's perspective goes beyond mere physical and mechanical interactions. It includes our ability to give meaning to the world around us. According to Heidegger, places do not exist independently; they gain significance through our interactions with them. This relationship is reciprocal. Our subjectivity is not formed before encountering a place; rather, it is shaped by the places we engage with (Malpas, 2018). This implies that humans and places are inseparable,

mutually defining each other. We do not first have a subject that perceives certain features of the world in terms of the idea of place; instead, the structure of our subjectivity is revealed through the structure of place.

Heidegger argues that a fundamental characteristic of human existence is our openness and willingness to be moulded by our surroundings. It is through this openness that we allow the world to have an impact on us. In his influential essay *Bauen Wohnen Denken* (*Building Dwelling Thinking*), first published in 1951, he introduces the concept of 'dwelling' to shed light on the unique way humans exist in the world (1971). For Heidegger, dwelling is not just passive occupation of physical spaces. It represents a way of being characterised by a deep sense of rootedness and belonging, where individuals authentically feel 'at home' in their own existence (Heidegger, 1971). Dwelling entails a deep sensitivity to the distinctive characteristics of our environment. It involves an appreciation for the landscape, the materials used in construction and the cultural and historical contexts that shape our living spaces. It also allows us to connect the past with the present, carrying forward our experiences, traditions and personal histories into our contemporary lives.

According to Heidegger, we are used to think that building leads to dwelling; that we build a house or a shelter to have a place in which to dwell. According to this view, dwelling is the goal and building is the means to achieve it. Heidegger disagrees with this idea. As humans we *must* dwell because dwelling is inherent to our nature, and in order to dwell, we engage in the act of building. Therefore, building is not just a way to reach dwelling; building is dwelling itself. We do not dwell because we have built something; instead, we build because we already dwell (Heidegger, 1971, pp. 146–148). To build and to dwell are mutually contingent on each other. This can, for instance, be observed in children's intuitive engagement in building huts, crafting shelters or fashioning homes for their dolls or teddy bears. They instinctively understand how to establish secure and comfortable spaces, even though no one has explicitly told them what dwelling entails.

To be well is to be at home

Perhaps nowhere is the profound connection between human existence and place more vividly expressed than in Bachelard's work *La poètique de l'espace* (*The Poetics of Space*), first published in 1958. In this book, Bachelard

(2014) explores the significance of our childhood home in shaping our self-awareness and how we perceive the world. Bachelard (2014) argues that the childhood home consistently represents something positive. To him, the feeling of being at home symbolises a state of existential well-being, something we continually seek. 'Life begins well, it begins enclosed, protected, all warm in the bosom of the house.' (Bachelard, 2014, p. 29).

Bachelard's primary focus is on the existential significance of the tangible elements in our immediate surroundings — the things within a human being's direct environment. He delves into concrete elements within our homes, like the kitchen, bedroom, drawers and cupboards. He emphasises that our experiences in these spaces are deeply connected to our physical presence and introduces the concept of 'reverberation' to underline that there is a fluid movement between individuals and their homes. The spaces of the house are in us as much as we are in them.

At the heart of Bachelard's (2014) understanding of the existential significance of home is the human capacity to create poetic images of our personal and intimate spaces. He believes that humans possess a genuine gift for imagination, allowing us to envision things beyond what we immediately perceive. Bachelard suggests that daydreaming is our way of participating in this meaning-making process. He views daydreaming as an interpretive act that weaves together our past, present and future experiences. It is an imaginative process that operates at a level that precedes conscious thought, a state Bachelard calls 'naive consciousness'. Unlike simple sensory perception, daydreaming is a dynamic and creative act. It does not just replicate what our senses perceive; instead, it actively transforms our initial sensory images, allowing them to evolve and change. Daydreaming in this way provides a source of continuity that links us to the world. So instead of thinking of our understanding of ourselves and our personal history as a straightforward timeline, Bachelard encourages us to consider that our memories are deeply intertwined with the spaces we have inhabited, just as much as they are linked to the passage of time.

Bachelard (2014) assigns a specific significance to our first home. It is our initial connection to the world. It leaves profound emotional imprints on us, regardless of our future experiences. We continue to carry the memories of being the child who sought refuge in the attic or daydreamed in the quiet corners of this home. These memories offer a sense of continuity, grounding our sense of self in the concept of the 'absolute here'.

As beings, Ida and Stine need to be at home

So, according to Heidegger and Bachelard, having a home and inhabiting it is more than just having somewhere to reside. It involves a profound sense of belonging to a space wherein other people, the things in our immediate surroundings, and past and present experiences bring each other into being in creative and transformative processes which transcend time.

Drawing upon Bachelard, sociologist Ann Game (2001) characterises the feeling of being 'at home' as moments where one thinks, 'This is it', 'This is right', or 'This is what I have always known'. Game describes how she encounters such moments, among others, when she is running into the waves of the ocean, feeling the salty spray on her face and the sand between her toes. She describes a profound state of losing herself in these experiences, finding a sense of belonging and a feeling of 'coming home'. Game contends that this feeling extends beyond a mere repetition of past experiences with sea and sand; instead, it bears a deep connection to her childhood. It represents a profound merging of past and present, a harmonious blend of 'I know this already' and 'this feels new'. So these experiences evoke a dual sense of now and then, old and new, all at once. In feeling 'this is right', she experiences a sense of being in connection with the world. 'I belong, my body is comfortable here, it fits'.

What Game describes here is an experience she does not have a conscious or intellectual understanding of, but rather an experience on a deep, instinctive level. Something familiar unfolds for her, but not like a memory in the usual sense. It seems to be something more universally human. This raises the question: How can her vivid description help us to grasp the experiences of children who are uprooted from their homes — from the places that give them the feeling of 'this is right' — and moved between different institutions the way Ida and Stine were?

In his book *Non-Places: Introduction to an Anthropology of Supermodernity* from 1995, Augé introduces the term 'non-places' to describe transient spaces we merely pass through while moving from one destination to another. These spaces include, for instance, airports, train stations and shopping malls. They are designed for specific functions such as transportation or commercial services and lack that sense of permanence and meaningful interaction Game describes. In these spaces, people are not seen as unique individual subjects but as representatives

of generic categories, like travellers or consumers. Thus, non-places typically do not leave any lasting impression on us, and we are not expected to leave an impact on them. According to Augé, this experience contributes to social and cultural alienation, disconnecting individuals from their environment and from each other, ultimately rendering these places uninhabitable.

A clear example of non-places can be found in multinational chain establishments like restaurants, supermarkets, offices and hotels. These locations are practically identical whether they are in the northern or southern hemisphere, or in the east or west. As a result, being in a shopping mall in Oslo can feel almost indistinguishable from being in one in London, Beijing or Dubai. We find the same stores, the same products and the same architecture. The experience of being there is almost like an experience of being nowhere.

For the majority of us, non-places are simply transient areas we pass through on our way from one meaningful place to another, such as the spaces between our workplaces and homes. However, for Ida and Stine the constant shifting between various institutions appears as an endless cycle of being moved from one non-place to another. They were denied the chance to forge meaningful bonds with their surroundings; to establish places conducive to daydreaming and dwelling. Consequently, this continuous displacement can be regarded not merely as a lack of proper care, as indicated in the reports by the county governors, but also as a violation of these girls' humanity.

Heidegger (2010) explains how attempting to dwell in uninhabitable spaces can lead to a state of existential disorientation, which manifests in a feeling of unhomeliness. It is a feeling that emerges when we lose the deep connection we once had with the world and become disconnected from our own existence within it. It results in a breakdown of meaning that gives us a fundamental sense that the world is an inhospitable place, leaving us with an existential emptiness — a feeling of not truly belonging (Svenaeus, 2005). Perhaps setting one's residence on fire and taking another person's life with a knife was the only possible way for Ida and Stine to express this feeling? Two months before Stine tragically stabbed the young woman, she expressed her struggle in a letter to the County Governor in Agder, stating, 'The Child Welfare Service allows me to live a life that I obviously cannot cope with' (County Governor in Aust and Vest Agder, 2018, p. 5).

After the incident, she wrote another letter to the County Governor, describing the past year as extremely exhausting (p. 6).

An ethical demand

In Heidegger's and Bachelard's understandings of what it truly means for us to have a home and inhabit it, an ethical demand emerges: Those responsible for the well-being of children and young people who cannot stay in their homes due to risks, neglect, abuse or exposure to parental mistreatment should strive to offer more than just a safe place. They should genuinely try to understand and acknowledge that moving these children from their homes entails more than disrupting the children's relations with their parents and friends; it also entails disrupting their connection to the places where they find their existential stability. The question that naturally arises is: How can child welfare professionals respond to this demand in a way that shields these children from encountering a feeling of not having a place in the world where they truly belong — similar to what Ida and Stine might have felt?

In *Being and Time* (2010), Heidegger describes three fundamentally distinct modes of being in the world. The first he terms 'readiness-to-hand'. This involves an objective and distant relationship with the world, observing and describing it from an external perspective, with everything appearing detached from its context. The second is labelled 'present-at-hand'. This relates to a pragmatic and engaged interaction with the world, where things and the world are observed from a concrete and practical standpoint. Both modes involve a connection to the environment where the world and its constituents are perceived as if they were mere objects.

The third mode is termed 'presence'. For Heidegger, this forms a foundation upon which all other thinking must begin. As discussed earlier in this chapter, Heidegger contends that life encompasses more than just objective facts, and it is only through 'presence' we can get access to this. Thus, it is only from this mode that it is possible for child welfare professionals to acknowledge and answer the ethical demand.

In the last section of this chapter, I will argue that the Norwegian child welfare system is underpinned by an epistemological framework that gives priority to the modes of being that Heidegger terms 'readiness-to-hand' and 'present-at-hand', not the mode of 'presence'. This makes it hard for child welfare professionals to perceive and respond to the ethical demand.

A need for an existential turn

In recent decades, the Norwegian welfare state has seen an organisational reform that has placed a greater emphasis on evidence-based methods and principles associated with New Public Management. This reform is part of a global trend aimed at improving the quality of interventions by applying scientific methods and standardised programmes (Almklov et al., 2017). A central objective of this reform is to encourage professionals to base their actions as closely as possible on objective and reliable knowledge (Ekeland, 2004). In the context of Norwegian child welfare services, these changes are often framed as part of a modernisation effort with the aim of establishing a knowledge-based child protection system (Lichtwarck & Clifford, 2010). Currently, there is a widespread belief that interventions should be firmly rooted in research-based knowledge which has been proven to have positive outcomes (Proposition to the Storting (bill) 106 L, 2012–2013; Christiansen, 2015). The Norwegian Government has taken several steps to enhance professional competence in this regard, emphasising the importance of more knowledge for better child protection through a competency strategy for municipal child welfare services spanning the period from 2018 to 2024 (The Norwegian Directorate for Children, Youth and Family Affairs, 2018).

While evidence-based thinking offers a valuable approach for gaining insight into specific aspects of the lives of children in child welfare services—those that can be externally observed and described—it also embodies an epistemological perspective that tends to lead child welfare professionals to perceive the children and their environments as mere objects. In this way the perspective tends to obscure the genuine essence of the children's lives, those aspects that can only be accessed through the mode of 'presence'.

Some examples of this are the reports written by the county governors regarding the cases of Ida and Stine. As discussed earlier in this chapter, they primarily emphasise observable and describable aspects of the girls' care situations, such as the use of coercive measures, documentation procedures, governance structures and the effectiveness of leadership. Another example is the focus in the report authored by Barnevernsinstitusjonsutvalget [Norwegian Child Welfare Institution Committee], which was appointed by the Norwegian Government in June 2022 in response to various reports indicating unsatisfactory conditions for children and youth residing in

child welfare institutions. While the committee comprises members from diverse professions, including social work, medicine, sociology, law, economics, and psychology, it notably lacks representation from the humanities, such as theology or philosophy. The central focuses of the report are the needs for professional guidelines, individual plans, regular supervision, assessment, adequate staffing, increased expertise, management resources, and more healthcare assistance (NOU 2023:24).

In Heidegger's terms, both the reports from the county governors and the child welfare institution committee appear to be characterised by the modes of 'readiness-to-hand' and 'present-at-hand'. There seems to be a significant lack of consideration for the crucial issue of how the displacement of children from familiar places in their homes affects their existential well-being. This raises the question of how child welfare professionals, even while operating within the constraints of the modes of 'readiness-to-hand' and present-at-hand', can nurture the mode of 'presence' essential to comprehending and responding to the ethical demand. In my concluding discussion, I will suggest that it might be possible to do so by adding the language of poetry into the professional's work.

Poetry as a way to the mode of 'presence'

In the anthology *Omsorgsforståelser. Mellom poesi, profesjon og politikk* (Kroken, 2018), the authors argue that to truly understand the lives of people who are in vulnerable life situations, professionals need to look beyond what is usually considered relevant in their work. They also emphasise that such understanding requires professionals to personally engage with the people they are helping and that fictional literature and poetry can be powerful tools in this approach. To be able to do this, professionals must first seek to understand the fundamental existential aspects within their own lives. A poetic language carries within it the potential for a more direct connection to our experiences than scientific or specialised language can provide.

Bachelard (2014) also argues that poetry has the power to embody those aspects of people's lives which elude science. Poetry opens a realm of daydreaming where we can get access to the deeper layers of our being. This enables us to transcend the limitations of rational language. Poetry has the power to awaken our imaginations, reconnect us with the profound meanings and experiences associated with our homes and provide a more

intimate relationship with our surroundings. According to Bachelard (2014, p. 28), it is only through poems that 'the ultimate poetic depth of the space of the house' is made available to us.

In Bachelard's view (2014), authentic poetry never merely translates life: instead, it involves a process of creation, of bringing something new into existence. This understanding is connected to the ancient Greek understanding of poesy. Aristotle's *Poetics* (1996) is an ancient text, over 2,000 years old, that delves into the nature and methods of poetry. While Bachelard discusses daydreaming and imagination, Aristotle, who lived from 384 to 322 BC, focuses on imitation. He begins *Poetics* by asserting that all forms of poetry fundamentally entail imitation. He believes that through the imitation of various aspects of life, both our own and others, we can gain a deeper insight into fundamental aspects of human life.

Aristotle's primary focus is on tragedy as a form of poetry. Within his explanation of tragedy, four key concepts are essential. First, there is 'mimesis', which means imitation. Aristotle argues that tragedies imitate not people, but actions, life events, happiness and sadness. The second concept is 'peripeteia', meaning reversal. Tragedies are marked by a significant plot change, completely altering the situation. Those who watch, hear or read a tragedy see the world in a new way. Aristotle suggests that this change leads from ignorance to knowledge. The reason for this change is 'anagnorisis', which means recognition. In these imitations, we recognise universal human experiences that also relate to our lives. We identify the general within the specific, which stirs our emotions. Reversal and recognition are the core elements of tragedy's structure and are its most impactful techniques. The last central idea is 'catharsis', meaning purification. Through the emotions triggered by tragedy, we learn something fundamental about what it means to be human.

Bachelard also employs poetic imagery in his own writing. In *The poetics of Space*, for instance, he draws comparisons between the house and 'nests' and 'shells' (2014). Game (2001, p. 232) describes how these images resonate in her. She expresses that Bachelard's images evoke a childlike joy. Every time she reads him, she feels the urge to exclaim, 'Yes, that is it! I had not seen that before, now I understand. Now I get it. Now I get what I have always known, reliving it in a manner that is new'. It is like reliving it in a fresh way. 'His words take root in me, they grow, and they nurture my understanding.'

Conclusion

The aim of this chapter has been to delve into the question of what it fundamentally means for human beings to have a home and inhabit it, and to examine how this can give a better understanding of the experiences of children who are displaced from their homes and transferred between various child welfare institutions.

In conclusion, addressing the existential dimensions of having a home and inhabiting it is essential for child welfare systems to provide children who are uprooted from their homes with the support they need to thrive. Uncovering and understanding these existential dimensions of home requires a paradigm shift in the language and approach used within the child welfare system. This does not diminish the importance of safeguarding children's rights, establishing routines and ensuring proper care and treatment, as highlighted in the reports from the county governors in Agder and Rogaland and the report from the child welfare institution committee. However, it underscores the existence of a deeper, existential dimension in children's lives that must be addressed first.

Author biography

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References

Almklov, P. G., Ulset, G., & Røyrvik, J. (2017). Standardisering og måling i barnevernet [Standardization and measurement in child welfare services]. In T. Larsen & E. Røyrvik (Eds.), *Trangen til å telle: Objektivering, måling og standardisering som samfunnspraksis* (pp. 153–183). Scandinavian Academic Press.

Aristotle (1996). *Poetics* (J. Hutton, trans.). Norton Critical Editions.

Augé, M. (1995). *Non-Places: Introduction to an anthropology of supermodernity.* Verso Books.

Bachelard, G. (2014). *The poetics of space.* Penguin Books Ltd.

Christiansen, Ø. (2015). *Hjelpetiltak i barnevernet – en kunnskapsstatus* [Intervention measures in child welfare services – a knowledge status]. Uni Research Helse, Regionalt kunnskapssenter for barn og unge (RBKU Vest).

County Governor in Aust and Vest Agder. (2018). *Historien om Stina* [The story about Stina]. https://www.statsforvalteren.no/contentassets/8e9bca4a5f3646ed864560e0b95ec6f6/historien-om-stina---rapport-etter-fylkesmannens-tilsyn.pdf

County Governors in Hordaland, Rogaland and Troms. (2016). *«Dei forstod meg ikkje» Tilsynsrapport 19. september 2016* [They did not understand me]. County Governor in Hordaland. https://www.statsforvalteren.no/contentassets/21c2006e3f3d45918321c006a5a370e7/dei-forsto-meg-ikkje---tilsynsrapport.pdf

Ekeland, T.-J. (2004). Autonomi og evidensbasert praksis [Autonomy and evidence-based practice] (Arbeidsnotat 6). https://oda.oslomet.no/odaxmlui/bitstream/handle/20.500.12199/3110/6-2004%2C%20Ekeland%2C%20Autonomi%20og%20evidensbasert%20praksis.pdf?sequence=4&isAllowed=y

Game, A. (2001). Belonging: Experience in sacred time and space. In J. May & N. Thrift (Eds.), *Timespace: Geographies of temporality* (pp. 226–239). Routledge.

Hansen, F. T., Eide, S. B., & Leget, C. (Eds.). (2023). *Wonder, silence, and human flourishing: Toward a rehumanization of health, education, and welfare.* Lexington Books.

Heidegger, M. (2010). *Being and time.* State University of New York Press.

Heidegger, M. (1971). Building dwelling thinking. In M. Heidegger, *Poetry, language, thought* (A. Hofstadter, Trans.). Harper Perennial.

Kroken, R. (2018). (Ed.). *Omsorgsforståelser. Mellom poesi, profesjon og politikk* [Understandings of care. Between poetry, profession, and politics]. Universitetsforlaget.

Lichtwarck, W., & Clifford, G. (2010). *Modernisering i barnevernet: Ideologi, kontekst og Kompetanse* [Modernization in child welfare: Ideology, context, and competence]. Universitetsforlaget.

Malpas, J. (2018). *Place and experience: A philosophical topography.* Routledge.

Moland, A. M. (2022, 20 June). Statsforvalter snur: Vil granske om Liv Monika (18) kunne blitt reddet [County Governor Reverses: Will investigate if Liv Monika (18) could have been saved]. *Aftenposten.* https://www.aftenposten.no/norge/i/8Qar5Q/statsforvalter-snur-vil-granske-om-liv-monika-18-kunne-blitt-reddet

Norwegian Official Reports [NOU 2023: 24]. (2024). *Med barnet hele vegen: Barnevernsinstitusjoner som har barnas tillit* [With the child all the way: Child welfare institutions that have the trust of children]. Barne- og familiedepartementet.

The Norwegian Directorate for Children, Youth and Family Affairs. (2018). Årsrapport [Annual report]. https://bibliotek.bufdir.no/BUF/101/arsrapport-2018.pdf

The Norwegian Ombudsperson for Children. (2020). *'De tror vi er shitkids'. Rapport om barn som bor på barnevernsinstitusjon* ['They think we're shit kids.' Report on children living in child welfare institutions]. *https://www.barneombudet.no/uploads/documents/Publikasjoner/Fagrapporter/De-tror-vi-er-shitkids.pdf*

Proposition to the Storting (bill) 106 L (2012–2013). *Endringer i barnevernloven* [Amendments to the Child Welfare Act]. Ministry of Children and Families. https://www.regjeringen.no/no/dokumenter/prop-106-l-20122013/id720934/

Svenaeus, F. (2005). *Sykdommens mening – og møtet med det syke mennesket* [The meaning of illness – and the encounter with the sick individual]. Gyldendal Akademisk.

CHAPTER 9

Norwegian Child Welfare Cases in the European Court of Human Rights – an Ethical Perspective on the Judgments

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Abstract: In this chapter, light is shed on one of the many Norwegian child welfare cases that have been handled by the European Court of Human Rights. The case is particularly important as a source of legal understanding of what the right to family life amounts to in such cases. The most important lesson domestic authorities can learn from the judgment is that substantial weight has to be placed on the goal of reunification between natural parents and a child who is in public care. The focus of the chapter is the moral basis of this goal. By scrutinising the judges' reasoning, I trace the family values and normative ethical approaches (duty, consequentialist and virtue ethical) that are expressed in the judgment. I conclude by pointing to a possible danger in the Court's emphasis on the value-based duty ethical principle of reunification, namely that other considerations of what is best for a child are overshadowed. I defend a virtue ethical approach to child welfare cases, characterised by holistic reasoning in deciding what is best for the child.

Keywords: ECHR Article 8, family life and child welfare, diverging family values, ethics of child welfare, the principle of reunification

Introduction

In the last two decades or so, the policy of Norwegian child welfare has attracted national and international attention and criticism (Skivenes, 2023, p. 93). The criticism has been primarily directed at the use of coercive measures like care orders (*omsorgsovertakelse*), adoption without consent of the biological parent(s) and restrictions on contact between the parent(s) and the child who is in public care. The legitimacy of Norway's use of such measures has in recent years been judged by the European Court of Human Rights (hereinafter 'the Court') in a substantial number of cases. From 2017 to June 2022, the Court handed down judgments in 25 cases raised by private parties against the state of Norway (HUDOC European Court of Human Rights, n.d.). In 64 per cent of the cases, the Court found that Norway had violated the human right to private and family life.[1]

There are important lessons to be learned from the Court's reasoning in the judgments. For example, that the goal of reunification is to be strengthened in cases where the child and the parents are separated, that the organised meetings between a child in public care and its parent(s) should be more frequent (as a means to ease reunification), and that coercive measures have to be better substantiated and justified. In the wake of the Court's handling of the cases, Norwegian authorities have followed up by adjusting the country's child welfare law and practices to accord with the judgments (Sandberg, 2020). In the present book, the chapter 'Children, Family, and State: Changing Relationships and Responsibilities' contains examples of how the Norwegian Supreme Court, in its handling of three specific cases, rests on the Court's judgments.

In the present chapter, the focus will be on the moral underpinnings of the Court's judgments. To my knowledge, this is a novel contribution to the debate about the Court's handling of Norwegian child welfare cases. So far, and for good reasons, the debate has focused on how the judgments are to be followed up by the Norwegian authorities. What I will do is to shed light on the family values that can be traced in the Court's reasoning and try to identify the normative ethical approaches – consequentialist, duty ethical or virtue ethical – that form the Court's understanding of what is best for a child.

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1   For an account of the possible reasons for the high number of cases in which violations have been found, see the report published by the Norwegian National Human Rights Institution, *Why does the ECtHR find human rights violations in cases concerning the Norwegian Child Welfare Services* (2020).

To this end, I scrutinise one specific judgment made by the Court – in the *Case of Strand Lobben and Others v. Norway* (hereinafter the Strand Lobben case). I do so for three reasons. First, it has become a key case. As a key case, the judgment is particularly important as a guide to how similar issues are to be handled and judged, both by the domestic authorities and the Court itself. Second, it is particularly thorough and rich in content.[2] Third, the judgment is not unanimous and contains many statements from third parties. Thus, it is a rich source for tracing possible divergent views on family values and moral justifications of what is seen as best for the child.

For readers not familiar with the Court, I provide from the outset a short account of how the Court is organised, its aims and role. Next, the domestic proceedings of the Strand Lobben case will be accounted for, followed by a short summary of the case proceedings in the Court. Further, I provide a short account of the ethical lenses I have applied in the analyses of the judgment. I continue by discussing five questions: Is the Strand Lobben v. Norway case considered as a whole (that is, are relevant factors taken into consideration)? Does the judgment display underlying divergent family values? How does the Court apply 'the best interest of the child' principle? How does the Court account for the principles of reunification and maintenance of family ties? Are the measures taken in Norway based on a fair weighing up of the interests of the parties involved? This is followed by my conclusion.

The European Court of Human Rights

In 1959, the Council of Europe, established in 1949, set up the European Court of Human Rights. The Court monitors the member states' respect for human rights as they are expressed in the *European Convention on Human Rights* (European Court of Human Rights, 1950) (hereinafter, 'the Convention'). The Convention applies to citizens of the countries that have ratified it. Individuals can apply directly to the Court to have their case heard. The formal requirement for getting a case accepted by the Court

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2   The 98 page legal document contains the following: a 50 page account of the case in the Norwegian legal system; a 15 page account of the scope of the case and the proceedings before it was heard in the Grand Chamber, including the parties' submissions and comments; a 13 page consideration of the Court's general principles at hand for Article 8 cases, including how the principles are to be applied in the present case; and a conclusion. The last 20 pages consist of so-called separate opinions – in this case, the concurring opinion of six judges, the concurring opinion of one judge, the joint dissenting opinion of four judges and the joint dissenting opinion of two judges.

is that that all possible domestic legal proceedings have been exhausted. The Court's decisions are important, not only for individuals that pass the relatively high threshold to have their case heard, but also for the member states. The decisions are meant to direct domestic legislation and practices.

The Court consists of 47 judges who are elected for nine years by the Parliamentary Assembly of the Council. The judges are elected in respect of a state, but in hearings they act as individuals, not as representatives of the state (European Court of Human Rights, 2014).

The Court is organised in five sections. A section is an administrative unit in which a judicial establishment – a chamber – is formed. The sections consist of a president, a vice-president and 7–8 judges. Most cases are decided in a chamber, and a few, those considered to be important for reasons of principle, are heard by the Grand Chamber, consisting of 17 judges: the president, the vice-president, the president of each of the five sections, the national judge and other judges who are chosen by drawing of lots (European Court of Human Rights, n.d., Composition of the Court).

The case of Strand Lobben v. Norway – domestic proceedings

In Norway, child welfare cases that are heard by domestic courts normally start with a coercive decision made by the County Social Welfare Board[3] (*Fylkesnemnda for barnevern og sosiale saker*). An appeal against the Board's decision is made to the district court (*tingrett*).[4] The subsequent appellate bodies are the Court of Appeal (*lagmannsrett*)[5] and, finally, the Supreme Court of Norway (*Høyesterett*).

I provide a resumé of the proceedings of the Strand Lobben case in the Norwegian courts in order to inform the reader about the background of the case. The account is based on the forementioned legal document *Case of Strand Lobben and others v. Norway (Application no. 37283/13) – Judgment* (European Court of Human Rights, 2019).

Prior to the processing of the Strand Lobben case in the Court, it had been pending in the Norwegian court system for 5 years. It started with

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3   From 2023, the name of the Board was changed to the Child Welfare Tribunal (*Barneverns- og helsenemnda*). I use the former name here, as it appears in the Court's judgments.

4   I use the current official name district court. In the judgement, the former name City Court is used.

5   I use the current official name Court of Appeal. In the judgement, the former name High Court is used.

Trude Strand Lobben and her newborn boy X's stay at a parent-child institution in October 2008. The stay was agreed upon by the municipal Child Welfare Services and Strand Lobben prior to the birth. Strand Lobben had expressed concerns that her situation (no permanent place to live, some health issues due to epilepsy and a troublesome relation with the putative father of the child) would make it hard to take proper care of the child, and that she was in need of help to become a good mother (European Court of Human Rights, 2019, p. 3, paragraph 12). The Child Welfare Services, for their part, were worried about Strand Lobben's mental health and ability to take proper care of a child (European Court of Human Rights, 2019, p. 4, paragraph 15). For the first five days after the birth, Strand Lobben's mother stayed with her daughter and grandson at the parent-child institution. Three weeks after X was born, the Child Welfare Services decided to place him in an emergency foster home, and Strand Lobben was granted the right to visit him for one and a half hours per week. The background for the emergency placement was that Strand Lobben wanted to leave the parent-child institution and the staff were deeply concerned that she would not be able to take care of her son. During Strand Lobben and X's stay, the staff had observed what they took to be a lack of basic caring skills, and they were worried about X's condition and loss of weight.

When X had been in emergency foster care for one month, the County Social Welfare Board issued a care order upon the municipality's request, based on the assessment that Strand Lobben lacked the necessary skills to take care of a child's needs (European Court of Human Rights, 2019, p. 8, paragraph 31). In support of their decision, the Board assumed that X would grow up in a foster home, due to Strand Lobben's 'fundamental problems and limited potential for change' (European Court of Human Rights, 2019, p. 11, paragraph 43). The amount of contact between Strand Lobben and her son was fixed at two hours, six times a year. The Board evaluated whether this was too frequent, given the risk of disruption to the attachment process between X and his foster parents. The Board concluded, however, that there was room for improvement in the contact visits.

Strand Lobben appealed against the care order to the district court. The district court upheld her appeal, on the basis that there was insufficient evidence that Strand Lobben was not able to care for her son. At that time, X had lived with his foster parents for 10 months. The municipality then appealed to the next level, the Court of Appeal, which overturned the district court's decision, upholding the care order and reducing the

amount of contact to two hours, four times a year (Søvig & Vindenes, 2020, p. 178).

In April 2011, when X was three years old, Strand Lobben 'applied to the child welfare services for the termination of the care order or, in the alternative, extended contact rights with X' (European Court of Human Rights, 2019, p. 24, paragraph 81). At that time, she was pregnant with her second child, whose father she had married. Based on the child welfare services' advice, the County Social Welfare Board decided to uphold the care order, and – moreover – withdraw parental responsibility for X and allow for adoption. Strand Lobben's appeals against this decision were turned down by all levels in the court hierarchy: the district court, the Court of Appeal and, finally, the Supreme Court, meaning that all possible legal remedies were exhausted.

The proceedings of the case in the Court – the human right at stake

Strand Lobben took the case to the Court in 2013, claiming that the continuation of the care order and the withdrawal of her parental responsibility were violations of her and X's right to family life, as stated in Article 8 of the Convention.

The Chamber that dealt with the case concluded in November 2017 by a majority (4–3) that the right to family life was *not* violated. In the beginning of 2018, Strand Lobben and X (who had been granted representation by Strand-Lobben), requested that the case be referred to the Grand Chamber. The request was granted. A hearing took place in October 2018, and the judgment was handed down in September 2019. By 13 votes to 4, the Court held that there *had been* a violation of Article 8, which reads as follows:

Right to respect for private and family life:

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

The Court's judgment in the Strand Lobben case contains an account of how Article 8 is to be understood and applied by the Court. As can be seen in the second paragraph of the Article, a prerequisite for legitimate interference by a public authority is that the interference is 'necessary in a democratic society'. Since this principle is important to the discussion in this chapter and maybe somewhat complicated to grasp, I will explain how it is accounted for and applied in the Strand Lobben case, with reference to the judgment of the Grand Chamber (European Court of Human Rights, 2019):

> In determining whether [the interference fulfilled the condition 'necessary in a demo-
> cratic society'] the Court will consider whether, in the light of the case as a whole, the
> reasons adduced to justify that measure were relevant and sufficient for the purposes
> of paragraph 2 of article 8. […]. The notion necessary further implies that the interfer-
> ence corresponds to a pressing social need and, in particular, that it is proportionate
> to the legitimate aim pursued, regard being had to the fair balance which has to be
> struck between the relevant competing interests. (p. 65, paragraph 203)

This notion of 'necessary' implies that the case must been seen as a whole (meaning that all relevant factors must be taken into consideration), and from this holistic perspective judge whether the interference was relevant and sufficient to protect the parties' rights and freedoms. The Court's assessment of relevance and sufficiency is to be found in its reasoning over three principles (European Court of Human Rights, 2019, paragraph 204–209): the best interest of the child principle, the principle of reunification (that includes maintenance of family ties and temporality of a care order) and the principle of striking a fair balance between the interests of child and the natural parents.[6]

These principles express norms and values that, together with case law and other relevant human rights instruments (like the UN *Convention of the Rights of the Child*) shall guide the judges in their considerations and decisions.

Moreover, the Court must take domestic law into account in its legal practice. The 'margin of appreciation' is a doctrine developed within the Court's jurisprudence. The doctrine allows the member states of the Council of Europe a margin of self-determination concerning how a given human

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6   I take 'natural parents' to mean 'a minor's biological or adoptive parent, and includes the minor's
     noncustodial parent' (Law Insider, *Natural parent* definition).

right is to be specified.[7] This implies that a human right regarding 'respect for family life' is open to a wide range of interpretations, which open a space for ethical considerations about what it means to enjoy that right.

In what follows, I discuss whether the Court succeeded in its ambitions to see the case as a whole, before analysing how the Court applied the forementioned principles in the present case.

The ethical lenses applied in the analyses of the judgment

In normative ethics, it is commonly held that there are three main approaches to right action: consequentialist, duty ethical and virtue ethical. According to consequentialism, right actions are those that lead to the best outcome for the parties involved (Shafer-Landau, 2021, p. 126). In duty ethics, right actions are those that accord with moral norms and rules (Alexander & Moore, 2020). According to virtue ethics, right actions are to be decided upon on the basis of what would be virtuous to do under the circumstances (Hursthouse, 2022; Shafer-Landau, 2021, p. 273). While the first two provide action-guiding *principles* – either consequence or rule – virtue ethics does not. Virtue ethics tells us to reflect upon what virtues like courage, kindness, humility and patience guide us to do (Annas, 2011, p. 41; Shafer-Landau, 2021, p. 274), and to take the complexity of situations into consideration when deciding what will be best to do (Shafer-Landau, 2021, pp. 274–275).

In my reading of the judgment, I have looked for traces of these different ethical approaches in the judges' justification of their opinions. I do so because I believe it can inform us about how the Court's opinions and value statements are ethically supported.

Was the Strand Lobben v. Norway case considered as a whole?

The Court's ambition to consider the Strand Lobben case 'in the light of case as a whole' is first and foremost a virtue ethical approach. As we shall see, the judges disagreed on whether the Court succeeded in

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7   For a detailed account of the margin of appreciation doctrine, see the article 'The margin of appreciation' (Council of Europe, n.d.). https://www.coe.int/t/dghl/cooperation/lisbonnetwork/themis/echr/paper2_en.asp

doing so. Moreover, they disagreed about what seeing the case as a whole demanded. I take the disagreement to reveal underlying diverging family values and ethical approaches. In what follows, I attempt to exemplify that.

The majority of 13 judges in the proceedings of the Grand Chamber stated that the scope of the case was delimited to only examine the part of Strand Lobben's application that the Chamber found admissible, meaning the part of the complaint that concerned the deprivation of parental responsibilities and authorisation of adoption (European Court of Human Rights, 2019, p. 52, paragraph 144). The majority maintained, however, that in their examination of these two issues, the Court had to put 'proceedings and decisions in context, which inevitably means that it must to some degree have regard to the former proceedings and decisions' (European Court of Human Rights, 2019, pp. 52–53, paragraph 148), meaning that they would have to take into consideration the parts of the case that, strictly speaking, were beyond their competence to decide upon: the issues concerning the care order(s), the frequency and duration of the meetings between Strand Lobben and X, as well as the assessments made of Strand Lobben's ability to take care of a child.

This willingness to see the case in the context of former decisions held to be beyond the Court's competence represents, again, a virtue ethical approach in which the complexity of a situation is important (Shafer-Landau, 2021, pp. 274–275). However, the holistic approach of the majority was attacked from two angles, one from within the majority itself – a group of six of the 13 judges who voted in favour of the finding that a violation of Article 8 had taken place – and one from the dissenting minority of four judges who did not vote in favour of that finding.

The first group did not criticise the holistic approach in itself. They actually supported the idea of considering the case as a whole, but they thought that the Court's majority did not fulfil that ambition. They did not see how decisions made prior to the adoption of X played a role in the Grand Chamber's judgment. In their separate statement, they explained that even if they had voted with the majority, since they supported the conclusion, they criticised the majority for insufficiently addressing the 'main issues which led to the case being referred to the Grand Chamber. […] the majority opted for an excessively narrow approach, entailing a very limited "procedural" violation' (European Court of Human Rights, 2019, p. 78, paragraph 1).

The first group contended, moreover, that the factors leading to adoption should have played a more important part in the Grand Chamber's considerations, meaning deciding whether the Norwegian authorities had given sufficient attention to the imperative (drawing on the Court's case law) that 'a care order should be regarded as a temporary measure, and in principle consistent with the ultimate aim of reuniting the natural parents and the child' (European Court of Human Rights, 2019, p. 78, paragraph 4). The group clearly stated that Norway had failed in regard to this – in their opinion – substantial point.

I trace here a mix of virtue ethical and duty ethical thinking. The group of six would have preferred more factors to have been taken into consideration (virtue ethical), but the factor they missed in the majority's considerations was the reference to the rule of reunification (duty ethical). This may imply that the six judges held the principle of reunification as being the most weighty in child welfare cases. A virtue ethicist would be wary of holding such a view, since he or she would be reluctant to apply firm principles to specific cases.

The importance of seeing the case as a whole was underlined in a separate opinion from one of the judges who voted in favour of the finding that a violation of Article 8 had taken place. He argued that it was important to take all parts of a case into consideration: all the domestic decisions that led up to the issue that was found admissible by the Court (European Court of Human Rights, 2019, pp. 85–86, paragraph 1–4). He concluded by suggesting that in the present case, it might be a coincidence that the Court had reached the decision that there had been a violation of Article 8 despite the fact that it was not examined as a whole. Moreover, he indicated that, had the Court seen the case as a whole, the judgments of Norway's handling of the case would have inspired a profound moral criticism of Norway's policy:

> Had the process in question been examined as a whole […], it would have been even more obvious that the fundamental problem dealt with in this case lies not only and not so much in the concrete circumstances of the applicant's case, but rather, to put it very mildly, in certain specificities of the Norwegian policy which underlies the impugned decisions and the process as a whole.

> It is hardly a coincidence that so many third party interveners have joined the present case. They include states whose authorities have had to deal with the consequences for their under-aged citizens of the decisions taken by Norway's *Barnevernet.* (European Court of Human Rights, 2019, p. 86, paragraph 5)

This harsh criticism of Norway's child welfare policy is consequentialist, as the judge contended that the Norwegian policy had negative consequences for children and state authorities outside Norway. This criticism may be read as a disapproval of Norwegian family values. This leads to the question of whether diverging family values can be traced in the judgment.

Does the judgment display underlying divergent family values?

The judge that criticised the policy of *Barnevernet* did not specify which authorities he had in mind in his claim that authorities outside Norway had been subject to negative consequences, but he was probably referring to Eastern European countries, in particular Poland, as a substantial number of that country's citizens live in Norway. Due to the Norwegian Child Welfare Services' (*Barnevernets*) interference in Polish families' lives, people have demonstrated in the streets both in Norway and Poland. Moreover, Facebook groups have been established whose mission is to criticise the Norwegian child welfare system (Skivenes, 2023, p. 93).

Consider the following list of the judges' geographical affiliations:

- The minority of four judges who voted that there had not been a violation of Article 8 are from (in alphabetical order) Denmark, Finland, Norway and the Slovak Republic.
- The majority of 13 who voted that there had been a violation of Article 8 are from (in alphabetical order) Andorra, Armenia, Georgia, Greece, Hungary, Italy, Iceland, Liechtenstein, Lithuania, Luxembourg, Malta, San Marino and Ukraine.
- The group of six who voted with the majority since they supported the conclusion, but stated that the majority had not succeeded in seeing the case as a whole, are from (in alphabetical order) Armenia, Georgia, Hungary, Liechtenstein, Lithuania and Ukraine.
- The judge who voiced criticism of the entire Norwegian child welfare policy is from Lithuania.

Looking at a map of Europe, the picture that emerges is a demarcation line between the north and the south, or more precisely, between the Scandinavian countries in the north (with the exception of the Slovak Republic, which joined the Scandinavian countries) and the others that

are spread over the southern part of Europe – and from the west to the east. This is probably not a coincidence.

I will not go into a discussion of why it is so, other than suggest some possible interrelated explanations: Scandinavian family values imply that, in child welfare cases, less weight is given to ties between natural parents and children than is the case in other European countries; Scandinavian countries grant children more rights and autonomy compared to the other countries (Skivenes, 2023, p. 96); Scandinavian countries' welfare systems are strong in the sense that they provide more benefits and care for their citizens over a citizen's lifespan than the other countries do; Scandinavian countries have a lower threshold than the other countries to interference in the inner life of families.

Research on these topics is rare, but a recent study by Marit Skivenes (2023) sheds light on English, Norwegian, Polish and Romanian citizens' views on restricting parental rights in order to protect children from neglect or abuse (specified as unsatisfactory care, alcohol misuse, mental illness and intellectual disability). She found that citizens in these four countries have quite similar views on child welfare intervention. Skivenes' findings do not confirm an assumption that differences in family values can explain '… the flood of criticism in the mass media and social media' (Skivenes, 2023, p. 103).

Skivenes' research indicates that, among citizens, there are no traces of different family values when it comes to child welfare. There are, however, traces of such differences among the judges in the Strand Lobben case. Consider the following criticism levelled by the minority (the four judges who voted that there had not been a violation of Article 8), against the majority's justification of their vote:

> … it is hard to avoid the conclusion that the majority dislike [sic.] the outcome of the case at the domestic level and have sought to address the substantive objections or misgivings under the guise of procedural shortcomings. *Yet the underlying value judgments and preferences deserve to be ventilated with greater transparency.* (European Court of Human Rights, 2019, p. 91, paragraph 18) (author's italicisation)

Here, the minority accused the majority of deliberately hiding substantial objection under the cover of procedural objection to Norway's handling of the case. As evidence of the accusation, the minority of four pointed to what they took to be the majority's explanation for their vote, namely '… that the domestic authorities "focused on the interest of the child" and

did not "seriously contemplate" the child's reunification with his biological family' (European Court of Human Rights, 2019, p. 90, paragraph 14. See also paragraph 16).

This indicates that the minority and the majority displayed diverging family values, in the sense that children's interests have a stronger position in the Scandinavian countries than in the other countries. Let us examine the Court's reasoning about children's interests in more detail.

How does the Court apply 'the best interest of the child' principle

Fundamental to the Court's handling of Article 8 cases is the best interest of the child principle. The child's best interest is paramount in decisions of domestic child welfare cases, and the principle is well-established in domestic and international law (European Court of Human Rights, 2019, p. 65, paragraph 204).

The principle is complicated. The problem is not support of the principle itself, but on agreeing what the best interest of the child means in general and in a particular case. Moreover, there is the question of what standards should be applied in the assessment of what is best. That question is hard to answer, due to the fact that what is considered best for a child varies according to cultural, historical, religious and ethical views on children and family, views that constitute the background conditions of the judgments of any court that has to decide in child welfare cases.

The Court admits these difficulties. After stating that the best interest of the child is of crucial importance, the Court maintains that it is up to the domestic authorities to decide what is best for the child. The following statement, that I take to express a virtue ethical approach, is worth noting:

> In determining whether the reasons for the impugned measures were relevant and sufficient for the purpose of paragraph 2 of Article 8 of the Convention, the Court will have regard to the fact that perceptions as to the appropriateness of intervention by public authorities in the care of children vary from one Contracting State to another, depending on such factors as traditions relating to the role of the family and to State intervention in family affairs and the availability of resources for public measures in this particular area. (European Court of Human Rights, 2019, p. 68, paragraph 210)

The Court's cautiousness in relation to holding and applying specific ideas about what is best for a child in given circumstances is, in many

respects, good. For one thing, the Court has not, as the domestic authorities may have, direct access to all the persons involved in a case (European Court of Human Rights, 2019, p. 68, paragraph 210) and to the details of it. Moreover, such cautiousness shows a respect for the competence of national law and practices. It also shows an understanding that the financial and practical resources to implement measures may vary.

Certainly, one can agree that the best interest of the child principle is of high moral value for the child. The Court is very clear in stating so, but the disagreement among the judges in the Strand Lobben case illustrates the point mentioned above, that it is hard to decide what exactly is in the best interest of a child.

The extent of permitted national self-determination varies, however, with types of measures. According to case law in child welfare cases, the Court allows the contracting states a wide margin of appreciation in questions concerning taking a child into care. In other but related questions, the Court allows the domestic authorities a narrower margin. Such related questions concern, for instance, the parents' right to meet their child when it is in public care. Contact arrangements and other measures should – as clearly stated in the judgment – be arranged on condition that a care order is temporal. This leads us to scrutinise the Court's account of reunification as a principle.

How does the Court account for the principles of reunification and maintenance of family ties?

As previously mentioned, an important guideline for the Court's work is that the domestic authorities should always (except in extreme cases) work for a reunification between the natural parents and a child who is in public care: '… a care order should be regarded as a temporary measure, to be discontinued as soon as circumstances permit' (European Court of Human Rights, 2019, p. 66, paragraph 205, p. 67, paragraph 208). An important means for bringing about reunification, is the maintenance of family ties by facilitating contact between the child and its parents. The Court criticised both the frequency and the arrangements of the contact visits between Strand Lobben and her son, and the Court made this alleged wrongdoing an important point in its judgment against Norway (European Court of Human Rights, 2019, p. 72, paragraph 221).

The principle of reunification builds on the idea that children somehow belong to their parents. To say that a child is 'mine' – not anyone else's – is to say that the child belongs to me, the natural parent, and that it is my moral right and duty to care for it.[8] Such an idea of belonging expresses deep-rooted family values, it is easily morally supportable and it is supported by national and international law. Likewise, intervening when caring duties are seriously neglected is held to be morally legitimate. However, an accusation against parents for neglecting their caring duties may be perceived as an attack on their entire identity as moral persons, and may explain why state intervention often provokes fear and anger. With deep-rooted family values at stake come serious moral dilemmas that are at the core of child welfare work: to decide what circumstances oblige the state to interfere with the inner life of a family and to decide which measures to take.

In the light of deep-rooted family values that emphasise strong ties between natural parents and children, it is understandable that the Court stresses what I will call the reunification principle.

This principle should, however, be critically examined. I do so by discussing four questions. First, is the reunification principle in accordance with the Court's own allowance of a wide margin of appreciation for state members to decide what is best for a child? In a sense, no. By stressing that reunification is (almost) always a goal, the Court restricts domestic authorities' self-determination in that respect.

Second, connected with the first, is there a danger in holding reunification as a 'first principle'? One should not underestimate the force of this principle in assessments of what is best for a child. By holding reunification as a grounding principle, there is a risk that other important principles and interests receive too little attention, for instance, the child's own opinion. Thus, there is a danger that, as a principle, reunification becomes a too powerful factor in the assessment of what is best for a child.

Third, what implications does the principle of reunification have for measures connected to a child in public care? If the aim is (almost) always to reunify, measures like the frequency and quality of contacts between the child and the natural parents should certainly be aimed at achieving that goal. In the Strand Lobben case and other similar cases, the Court has criticised Norway for its practice of only allowing infrequent contact,

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8   This idea of belonging is close to what has come to be called the biological principle. I avoid using that notion since it has connotations to biological ties only.

making reunification more difficult. In the wake of these cases, Norway has followed up by changing its practices in this respect. One can hardly criticise a practice that aims to strengthen an assumed important relation, but one should be aware that contact is not always in a child's best interest.

Fourth, what kind of normative ethical thinking does the reunification principle express? By holding reunification as a principle, the Court takes a duty ethical stance: reunification is a rule that should (almost) always be followed. How does this approach accord with the Court's ambition to see a case as a whole – a virtue ethical ambition where all relevant factors should guide decision makers when deciding what will be best for a child? What can be traced here, I believe, is that the Court does not quite live up to its holistic virtue ethical ambition. By stressing reunification as a rule, all relevant factors in a case will somehow be considered in light of that rule.

Among the important relevant factors in a case are the interests of the involved parties. Let us now move to the Court's assessment of whether Norway took sufficient regard to the parties in the Strand Lobben case.

Are the measures taken in Norway based on a fair weighing up of the interests of the parties involved?

From both a legal and a moral point of view, the idea of considering the involved parties' interests in judgments and decisions is sound, and supportable by the various normative ethical approaches. To take the involved parties' interests into consideration fits well with a holistic virtue ethical approach. From a utilitarian consequentialist point of view, where what counts is to maximise the happiness of the involved parties, weighing up of interests makes a lot of sense. From a duty ethical perspective, to consider the involved parties' interests is to acknowledge that the rights (legal or moral) of the parties entail a duty to consider those rights. In child welfare cases, weighing up the parties' interests is of the utmost importance. Strong interests and important values are at stake. The Court (the majority of 13 judges) contended that Norway did not strike a fair balance between the interests of the parties in the Strand Lobben case.

In support of that claim, the majority pointed to the alleged failure not to seriously consider Strand Lobben's caring skills, especially in light of the fact that she was found able to care for her new child at the same time that

the Norwegian authorities, by allowing for the adoption of X, had decided to cut all bonds between her and X (European Court of Human Rights, 2019, p. 73, paragraph 225). The Court criticised Norway for not, at that stage, having provided an updated expert report on her caring skills. It is worth noting that the Court did not go so far as to say that Strand Lobben should have been reunified with X because she was found able to care for her new child. The Court limited itself to criticising the lack of an updated report, which might be reasonable given that caring skills for one child do not grant sufficient caring skills for another. However, having sufficient caring skills for one child may increase the probability of being able to care for another.

The probability of becoming a caring parent has to do with the potential for developing moral qualities and the ability to act morally good. In virtue ethics, these are central topics. Among virtue ethicists, there is a belief that moral character is developed by practicing (Annas, 2011, pp. 1–2; Aristotle, ca. 350 BCE/1992, pp. 250–251; Shafer-Landau, 2021, p. 276). This idea fits well with the policy of the Child Welfare Services in Norway and elsewhere. The service mainly consists of offering help and guidance, and other measures that can ease difficulties in a family. However, given the fact that Strand Lobben had another child that was not taken into public care, one can only speculate whether the Strand Lobben case indicates too little confidence among Norwegian authorities that parents can develop sufficient moral qualities and agency to care for a child.[9]

Too little confidence in Strand Lobben's potential or not, what can be read from the Court's report of the proceedings of the case in Norway is uncertainty regarding her caring skills for X. The decision to allow for adoption, due to Strand Lobben's '… fundamental problems and limited potential for change' (European Court of Human Rights, 2019, p. 11, paragraph 43), indicates a precautionary approach. Precaution, as a principle, is typically applied when we are to make decisions associated with uncertainty about what will happen in the future. In child welfare cases where

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9   Note, however, that in the domestic proceedings there was some disagreement in the matter. As mentioned, Strand Lobben appealed against the care order to the district court when X was 10 months old. The district court upheld her appeal. They decided that there was insufficient evidence to show that Strand Lobben was not able to care for her son. However, the municipality's appeal to the next level, the Court of Appeal, resulted in overturning the previous judgment. The Court of Appeal upheld the care order and reduced the amount of contact to two hours, four times a year. Moreover, there was disagreement between the experts concerning Strand Lobben's caring skills (European Court of Human Rights, 2019, p. 32, paragraph 105).

authorities consider imposing coercive measures, thorough justifications are required if a precautionary principle is to be applied. If not, the authorities do not take seriously the fact that child welfare measures have to do with deep-rooted emotions and values.

Connected with help, guidance and measures that can ease family difficulties is the role of the extended family of the child. At an early stage in the domestic proceedings of the Strand Lobben case, Strand Lobben suggested that

> … she and X could live together at her parents' house, arguing that her mother stayed at home and was willing to help care for X, and that she and her mother were also willing to accept help from Child Welfare Services. (European Court of Human Rights, 2019, p. 6, paragraph 23)

The County Social Welfare Board did consider Strand Lobben's suggestion to move to her parent's house and to be supported by her mother, but concluded that this would not provide sufficient security for X. As support for this claim, the Board argued that Strand Lobben's mother, during her stay at the parent-child institution together with her daughter and X, did not express any concern with respect to her daughter's care of X (European Court of Human Rights, 2019, p. 7, paragraph 26).

This reasoning indicates that the interests of what might be called the natural family were insufficiently taken into account. (Strand Lobben's extended family is not a formal party to the case but may be seen as a party from a moral point of view). If the conclusion regarding living with Strand Lobben's parents is based on the single observation that Strand Lobben's mother did not express concern about her daughter's caring skills, it seems that there was little interest from the Norwegian authorities to properly consider the potential important role of the extended family. Thus, the Court may have good reason to criticise Norway in this respect.

The possible role of the extended family is, however, important in Norwegian child welfare. According to official guidelines, the child's network and extended family are to be involved if it is in the best interest of the child. The assessment of whether involvement is in the child's best interest has to be assessed in each case (The Norwegian Directorate for Children, Youth and Family Affairs, 2023, p. 26), a condition that first and foremost expresses a virtue ethical approach characterised by taking the special features of a case as a point of departure.

Conclusion

Through its judgment in the Strand Lobben v. Norway case, the Court sent Norway the message that a care order should be regarded as a temporary measure, and that reunification of the natural parents and the child should always, except in extreme cases, be an aim. This notion of reunification expresses that the bond between parents and children is a deep-rooted human value. By stressing reunification as a rule, the Court set a duty ethical frame for the Court's judgments. This message to Norway has resulted in adjustments to the country's child welfare law and policy. Even though we are in the legal realm here, the message is moral. Norway has been told that its practices have had moral shortcomings concerning respect for important family values.

This conclusion holds, I believe, even if the Court allows domestic authorities' a wide margin of appreciation in questions concerning child welfare. The court allows for, for instance, national self-determination concerning care orders due to the fact that domestic authorities have more insight into the details of a case than the Court has, and due to respect for cultural variation when it comes to family values. As a result of the allowance of a wide margin of appreciation, the Court opens up for variation in how the best interest of the child principle is to be specified. However, through the Court's strong focus on the principle of reunification, a firm framework for how to specify the best interest of the child principle is established.

From a moral point of view, the idea to uphold the bonds between the parents and a child in public care is easily supportable – not only because children somehow belong to their parents and should be raised by them in a nurturing atmosphere, but also because good family bonds are of great emotional and practical value in many people's lives. However, there is reason to worry if the focus on reunification becomes too strong. The danger is that other considerations lose too much significance, resulting in too little attention to a child's needs. That is a moral problem.

In the judgment of the Strand Lobben case, the goal of taking a holistic perspective on the case is clearly expressed. There was, however, disagreement among the judges as to whether the Court succeeded in that respect. But taken together, the judgment may be seen as an effort to adopt a more holistic perspective than the Norwegian authorities allegedly did.

Seeing a case as a whole is to consider those things that should be taken into account in a judgment, which is a hallmark of virtue ethics. To put it in the words of Rosalind Hursthouse (2022), the application of moral norms '… requires situational appreciation – the capacity to recognise, in any particular situation, those features of it that are morally salient'. In judgments concerning child welfare, when the best interest of the child is at stake, the Court has to consider relevant legal sources and the relationship between national and international law. My account of the judgment of the case shows the complexity of such cases. Moreover, the account shows that the separate opinions of various judges are underpinned by morally grounded divergent views of family values. The account also demonstrates that the Court's judgments are justified by a mix of virtue ethical, duty ethical and consequence ethical approaches. The virtue ethical overall ambition is striking in the Court's emphasis on seeing the case as a whole. The duty ethical approach is visible in the justification of reunification as a grounding principle, while the consequentialist approach is traceable in the arguments for why reunification between natural parents and a child who is in public care leads to the best consequences for the involved parties.

Author biography

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References

Alexander, L., & Moore, M. (2020). Deontological ethics. *The Stanford Encyclopedia of Philosophy*. Retrieved 2 April 2023 from https://plato.stanford.edu/entries/ethics-deontological/

Annas, J. (2011). *Intelligent virtue*. Oxford University Press.

Aristotle. (1992). *The Nicomachean ethics*. In M. L. Morgan (Ed.), *Classics of moral and political theory* (pp. 235–381). Hacket Publishing Company. (Original work published ca. 350 BCE).

Council of Europe, Lisbon Network. (n.d.). The margin of appreciation. Retrieved 27 September 2022 from https://www.coe.int/t/dghl/cooperation/lisbonnetwork/themis/echr/paper2_en.asp

European Court of Human Rights. (1950). *European convention on human rights*. https://www.echr.coe.int/documents/convention_eng.pdf

European Court of Human Rights. (2014). The ECHR in 50 questions. Retrieved 23 October 2022 from https://www.echr.coe.int/documents/d/echr/50questions_eng

European Court of Human Rights. (2019). Grand Chamber. Case of Strand-Lobben and others v. Norway (*Application no. 37283/13*) – Judgment. Retrieved 3 April 2022 from *https://lovdata. no/static/EMDN/emd-2013-037283-2.pdf*

European Court of Human Rights. (n.d.). Composition of the Court. Retrieved 27 September 2022 from https://www.echr.coe.int/Pages/home.aspx?p=court/judges&c

European Court of Human Rights. (n.d.). The Court in brief. Retrieved 2 October 2023 from https://www.echr.coe.int/documents/d/echr/court_in_brief_eng

HUDOC European Court of Human Rights. (n.d.). Retrieved 3 October 2022 from https://hudoc.echr.coe.int/eng#{%22languageisocode%22:[%22ENG%22],%22respondent %22:[%22NOR%22],%22article%22:[%228%22],%22documentcollectionid2%22:[%22J UDGMENTS%22]}

Hursthouse, R. (2022). Virtue ethics. *The Stanford Encyclopedia of Philosophy*. Retrieved 2 April 2023 from https://plato.stanford.edu/entries/ethics-deontological/

Law Insider. (n.d.). Natural parent definition. Retrieved 30 September 2022 from https://www. lawinsider.com/dictionary/natural-parent

Norwegian National Human Rights Institution. (2020). Why does the ECtHR find human rights violations in cases concerning the Norwegian Child Welfare Services. Retrieved 3 October 2022 from Why Does the ECtHR Find Human Rights Violations in Cases Concerning the Norwegian Child Welfare Services – NIM (nhri.no).

The Norwegian Directorate for Children, Youth and Family Affairs (Barne-, ungdoms- og familiedirektoratet). (2023). *Rundskriv for barnevernstjenestens saksbehandling*. Retrieved 2 October 2023 from https://min.rettsdata.no/webfiler/rundskriv/ Saksbehandlingsrundskrivet_15.%20juni%202023.pdf

Sandberg, K. (2020). Storkammeravgjørelsene om barnevern [Grand Chamber decisions on child welfare]. *Tidsskrift for Familierett, Arverett og Barnevernrettslige Spørsmål*, *18*(2), 148–159. https://doi.org/10.18261/issn0809-9553-2020-02-05

Shafer-Landau, R. (2021). *The fundamentals of ethics* (5th ed.). Oxford University Press.

Skivenes, M. (2023). Exploring populations view on thresholds and reasons for child protection intervention – comparing England, Norway, Poland and Romania. *European Journal of Social Work*, *26*(1), 92–107. https://doi.org/10.1080/13691457.2021.1995706

Søvig, H. & Vindenes, P. H. (2020). Avgjørelser fra EMD i saker om vern av privat- og familieliv fra 2019–2020 [Decisions from the European Court of Human Rights in cases concerning the protection of private and family life from 2019–2020]. *Tidsskrift for Familierett, Arverett og Barnevernrettslige Spørsmål*, *18*(3–4), 173–209. https://doi.org/10.18261/issn.0809-9553-2020-03-04-02

CHAPTER 10

Should Foster Care Replace the Family? Child Welfare and the Value of Family Privacy

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Abstract: Privacy is a central characteristic of the family, and while there are reasons to value family privacy, it is also regarded as an obstacle to justice in the family ethics literature. Because family life is protected from intervention by external agencies, parents' resources and caregiving practices may have a profound impact on the child's rights and opportunities. Given these considerations, the family may be an obstacle to equality of opportunity and the protection of children's rights. Accordingly, a central question is how to justify child-rearing in families. A commonly held conclusion in the family ethics literature is that the family is preferable to alternatives like residential institutions or communal child-rearing. Existing contributions do not discuss more moderate alternatives, though, where problems of the family are addressed by enhancing the presence of state agencies in family life. In this chapter, I explore that possibility by asking if organising families as foster homes is less morally objectionable than raising children in families. I discuss three strategies for rejecting the suggestion: a child-centred approach, a dual-interest approach (taking into account both the child's and parents' interests) and a Rawlsian approach based on the value of reasonable pluralism in child-rearing. I argue that only the third strategy gives us a plausible solution to resist the foster care model I explore.

Keywords: family ethics, privacy, foster care, children's interests, parental interests, reasonable pluralism

Introduction

Child welfare services (CWS) in Norway and other European welfare states are usually based on a family presumption: that the family is and should be the basic child-rearing arrangement in society. In accordance with this presumption, official services such as the CWS have subsidiary responsibility for children, and should not intervene in family privacy and family life except in very serious cases. Thus, not only does this family presumption express the superiority of the family as a child-rearing arrangement, it also supports a particular form of family: a *private* arrangement where parents have considerable control and state agencies have limited access.

The family presumption is supported by widely held convictions about the value of the family as a private arrangement. Not only does the family seem better than other arrangements in raising independent and productive citizens but, for many of us, the family is a protected haven where we can be free from the gaze of others, cultivate intimate relationships and pursue our projects without external interference. However, as David Archard notes, the protected privacy of the family '… is also what can make it a place of danger' (Archard, 2010, p. ix). The protected privacy of the family gives parents the liberty to make their children's lives miserable. From this viewpoint, family privacy and parental control are plausibly regarded as obstacles to the protection of children and their interests.

Insofar as family privacy only implies danger for a minority of children, it does not undermine the family presumption in general. However, in the family ethics literature, family privacy is also associated with a more general problem, namely that '… children born into different families face unequal prospects' (Brighouse & Swift, 2014, p. 2). While perhaps not a problem for all types of families, this objection targets the family as a private arrangement, since protection against intervention from external agencies in family life is likely to enhance the impact parents' resources and caregiving practices have on the child's rights and opportunities.

The problems just outlined are recognised by a number of egalitarian philosophers, who plausibly regard these problems as sufficiently weighty to raise questions as to the justifiability of raising children in families

(e.g. Blustein, 1982; Munoz-Dardé, 1999; Archard, 2010; Brighouse & Swift, 2006, 2014). Those who address these problems usually pursue two lines of inquiry, often in combination: One strategy is to compare the family with other (imaginative) alternatives. Another is to consider whether there are grounds for accepting the family as a private arrangement despite the problems just outlined. A central claim in justifications for the family is that it is preferable to alternatives such as communal child-rearing or residential care institutions (e.g. Archard, 2010; Brighouse & Swift, 2014). In particular, some argue that intimate adult-child relationships, both inherently valuable and vital for the satisfaction of children's needs, are more likely to arise in families than in arrangements with multiple parents or professionalised care (Brighouse & Swift, 2014). For the sake of promoting intimate relationships, the family as a private, exclusive arrangement outperforms the alternatives.

This claim does not preclude the possibility that the family could be reorganised in a way that addresses the danger associated with family privacy without sacrificing the valuable family relationship. In this chapter, I explore that possibility. Instead of abolishing the family altogether, I ask whether it would be preferable to moderately increase the presence of state agencies such as the CWS in family life. Specifically, the suggestion is to reorganise families along the lines of a foster care model. The question I pursue is whether it would be better to organise *all* families like foster care. In what follows, I first defend this proposal in light of the problems with family privacy outlined in the Introduction. Then I consider three different strategies for defending family privacy, and argue that it is implausible to reject the suggested remodelling of the family by appealing to the interests of children or the interests of parents and children. To defend family privacy, a third strategy, involving a Rawlsian liberal principle of toleration for pluralism in child-rearing, is more plausible.

Background: Three challenges to family privacy

'The family' is an ambiguous term (see e.g. Gheaus, 2012, pp. 122–123). In this chapter, 'the family' refers to a small, private child-rearing arrangement with the following characteristics:

1. A multigenerational custodial arrangement, where the essential func-
    tion is to raise children, and where one or a very small group of adults
    have primary responsibility for the child.[1]
2. Parental responsibility is exclusive; only adult family members are
    parents and have child-rearing responsibilities.
3. Non-consensual interventions in the family must be sanctioned by law
    and are only permissible if there is a risk that the child's parents will
    harm the child by acts or omissions.

In short, this notion of family (henceforth simply 'the family') refers to a
legally protected custodial arrangement. This arrangement is in several
ways private: family members have exclusive access to each other and to
information about each other and the household. Parents have consider-
able discretionary power over access to the family and its members, and
child-rearing practices. These aspects serve to distinguish the family from
similar arrangements, and other arrangements that may involve adults and
children and have a significant role in a child's upbringing. Relationships or
arrangements that might otherwise resemble families, such as foster care,
do not count as families unless they satisfy the criteria outlined above. The
same applies to relationships we would regard as familial due to biological
relatedness or by virtue of their intimate nature.

    This chapter addresses the question of whether the family should be the
primary child-rearing arrangement in society. In *Family Values*, Brighouse
and Swift present an affirmative answer to this question (2014). Specifically,
they regard family privacy as a precondition for developing flourishing
close personal relationships, and the goods such relationships can mani-
fest. The goods associated with the family relationship – unconditional
mutual love, intimacy, spontaneity and the way the parental role involves
combining authority with love – are qualities Brighouse and Swift call
'familial relationship goods'. All family members have reason to want these
goods, but they are particularly important for children, for whom access
not only affects their childhood but also matters for their development.
Accordingly, the instrumental value of family privacy plays a significant
role in their justification of the family as a child-rearing arrangement.
Moreover, their defence of the family includes a comparative argu-
ment. Relationship goods are more readily available in the family than

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1   I have borrowed this criterion from David Archard (2010, p. 10).

in alternative arrangements such as residential institutions or communal child-rearing: The highly personalised bonds between parents and children that facilitate children's development are less likely to evolve if parents are trained or guided, and parent-child interaction scrutinised and evaluated. In their view then, children, parents and society in general have reason to favour the family over professionalised child-rearing or less private arrangements.

Family privacy and inequality

The family is also a well-known obstacle to justice. The following problem stands out as particularly challenging: children born into different families face unequal prospects (Blustein, 1982, pp. 203–204; Munoz-Dardé, 1999, p. 40; Rawls, 1999a; Brighouse & Swift, 2014, p. 2). As John Rawls wrote, 'It seems that even when fair equality of opportunity […] is satisfied, the family will lead to unequal chances between individuals.' (1999a, p. 448). Accordingly, he asked, 'Is the family to be abolished then?' (1999a, p. 448). While Rawls did not reach that conclusion, egalitarians, including Brighouse and Swift, have not dismissed the question (e.g. Munoz-Dardé, 1999; Archard, 2010; Brighouse & Swift, 2014). As Vallentyne and Lipson put it, '… if effective equality of opportunity is to be enjoyed by all, the family must lose some of its traditional decisionmaking powers for children' (1989, p. 27). In particular, family privacy and parental discretion are likely to matter significantly in the conferral of advantage or disadvantage: the privacy of the family ensures that family members, including the child, are highly dependent on the skills, resources and dedication of other members (Gheaus, 2018b). Since parents vary along these dimensions, the family is likely to both produce and sustain inequalities.

Brighouse and Swift's response is to claim that alternative arrangements like communal child-rearing or residential institutions will either limit children and parents' access to familial relationship goods, cut them off from these goods altogether, or involve unfair distribution of such goods. Because they regard familial relationship goods as important *distribuenda* of justice – or goods that we all have reasons to value (Brighouse & Swift, 2014, p. 147), there is a strong case against proposals involving diminished or unfair access to these goods. Accordingly, the importance of these goods explains how Brighouse and Swift can argue that the family should be preserved, despite its impact on other opportunities.

Although Brighouse and Swift's discussion of potential alternatives is far from exhaustive, I shall assume that their views on the value of relationship goods and their status as distribuenda are correct. This leaves alternative arrangements, including the one I present below, with a dual challenge: to be compatible with both equality of opportunity and with the realisation of familial relationship goods.

Family privacy and parental control

Family privacy and parental discretion also lie at the heart of another problem that concerns the appropriate distribution of freedom and authority between parents, children and the state, or *who* should have the right to decide *what* in relation to children's lives (Brighouse & Swift, 2014, p. 2). The justifiability of almost all policies targeting children, families, or parents depends on arguments that establish that the suggested balance between parental authority, state authority, and the child's rights are appropriate and just (cf. Archard, 2010, p. 20). Thus, we might ask, is raising children in the type of family we have just outlined a reasonable way to balance these considerations?

Parents' interests seem well-protected by the family. The arrangement provides parents with protected privacy and the authority to raise their children according to their values and beliefs. Depending on the resources available to them, they will also possess significant control over the arrangement. Thus, parents can, in principle, control their level of privacy (although resources – including access to welfare services – may, in fact, limit their level of control). Children, on the other hand, are born into an arrangement over which they, at least initially, have little or no conscious influence. Within the family, children remain subject to their parents' care and decisions throughout childhood, in an environment where other adults have limited access. Most children probably benefit from this. But there is also a considerable minority of children who suffer within the confines of the family's private sphere. Moreover, the fact that serious neglect and/or abuse in the family can sometimes go on undetected for years illustrates the potential danger of this arrangement and the risks associated with family privacy.

The assumption that only some children suffer within the family may lead us to associate the risks children face in the family with parental factors, such as parents' mental health, educational level, income, etc. However,

risk is also a characteristic of the family arrangement itself. Thus, although risk is distributed unevenly, the family places all children at risk. Drawing on the work of Robert Goodin, Anca Gheaus provides an analysis of the nature of the family arrangement and the risk it poses to children (Gheaus, 2018a; Goodin, 1985). Goodin claimed that '… some dependency or vulnerability relationships pose greater threats of exploitation than do others' (Goodin, 1985, p. 195). In particular, Goodin was concerned about relationships that satisfy all the following characteristics:

1. The relationship is asymmetrical in terms of parties' power over each other.
2. The dependent party has a vital need for the resources provided by the other party.
3. The superordinate party exercises discretionary control over those resources.
4. The relationship in question is the *only* source of such resources for the dependent party. (Goodin, 1985, pp. 195–196)

In Goodin's terms, relationships with these characteristics constitute morally objectionable dependency relationships. The problem with these relationships is that '… people in a vulnerable position are *exploitable* – not necessarily that they are exploited' (Goodin, 1985, p. 194). Indeed, many relationships that satisfy these conditions are not characterised by exploitation or domination. Nevertheless, in relationships with these four characteristics, there is an exceptionally high risk of power abuse. Moreover, the risk associated with these dependency relationships is not restricted to power abuse or exploitation but includes failure to provide the resources the dependent party depends on. Thus, Goodin's objections concern the *structure* of dependency relationships of the kind just outlined.

Gheaus argues that the family satisfies all four conditions of an objectionable dependency relationship. First, parents have power over their children. Second, children need love and affection, nourishment and discipline from their parents. Third, parents decide if, how and when the child's needs should be satisfied, and they do so without external supervision. Finally, except in very serious circumstances, others do not intervene in the family to care for or protect the child. Parents have, in Gheaus' terms, a 'monopoly of care' (e.g. Gheaus, 2018a, p. 4).

Goodin's and Gheaus' work helps us to identify a central problem with raising children in families, as well as how to address it. According to Goodin, moral objections to dependency relationships diminish insofar as they fail to display one or more of the four conditions outlined above (Goodin, 1985, p. 196). The question is which conditions to target. Since parent-child relationships are, at least initially, asymmetrical relationships where the child needs resources provided by the parent, possible targets are parents' discretionary control and their care monopoly. Gheaus' solution primarily targets the latter. Her suggestion is mandatory enrolment for children in day-care centres and schools (Gheaus, 2018a, p. 5). This might provide children with other independent caregivers and thus weakens the parental monopoly of care. Her proposal prevents parents from forbidding the child to form relationships with other adults, ensures that the child has access to an arena outside the family and increases the possibility of discovering serious cases of parental failure. Moreover, since her proposal leaves the structure of the family arrangement intact, her way of responding to objectionable dependency provides improved protection for children without sacrificing family privacy or the goods associated with family privacy.

The question is whether Gheaus' solution is sufficient. Given the prevailing problems of child abuse and neglect in societies where most children attend day-care centres and school is mandatory, this is a question worth further inquiry. One challenge, however, is to find suitable alternatives. Communal forms of child-rearing and institutional child-rearing have been discussed in the philosophical literature on the family (e.g. Blustein, 1982; Munoz-Dardé, 1999; Brighouse & Swift, 2014). Although such arrangements may address the challenges mentioned above, they do so at the cost of making a loving parent-child relationship less likely (cf. Brighouse & Swift, 2014, pp. 70–75). It is therefore less likely that such arrangements will provide children with the resources they need. Another way to terminate the monopoly of care is to make children members of (at least) two families, as in cases where divorced parents have joint custody. While this may be permissible in many cases, joint custody cannot be implemented as a generalised child-rearing arrangement without significant costs to our freedom to form and maintain personal relationships. However, exploring alternative child-rearing arrangements does not necessarily entail abolishing the family, replacing the family with institutional or communal child-rearing, or extreme levels of public intrusion in family

life (cf. Altman, 2018, p. 214). While intimacy surely requires some level of privacy and discretion, it seems possible, or so I shall argue, to moderately limit parental discretion and family privacy without undermining the goods of family life.

The foster care model

Imagine a society like ours, where children are usually raised by their birth parents, but where the families are organised almost like foster care. Unlike orphanages and similar institutions, or communal child-rearing, the arrangement I have in mind does not involve separating the child from his/her parents or transferring parental responsibilities to professionals or the community, but requires parents and families to receive the same level of support, supervision and monitoring as foster parents. In this society, all families are subject to a moderate degree of monitoring and intervention by state agencies like the CWS. In contrast to the practice in Norway, for example, where suspected or identified risk makes some families subject to this level of state intrusion, this is the general arrangement in our imagined society.

The child-rearing arrangement in our imagined society resembles foster care, but there are important differences. To illustrate how these arrangements differ, it is helpful to first outline a foster care arrangement and then explain which elements are preserved in the child-rearing arrangement of our imagined society. A foster home is, first, '… a private home that accepts children for fostering' (The Norwegian Child Welfare Act, 1992, Section 4-22).[2] Thus, like the family, it is a custodial arrangement. But foster care differs from the family in other respects:

1. Before taking on the assignment, foster parents are trained and approved (Ministry of Children and Equality, 2003, Section 3).
2. When a child is placed in foster care, parental responsibility is divided between the parents, the foster parents, and the CWS. The foster parents are responsible for the daily care of the child, but unlike in a family, the authority to decide in matters concerning the child is not limited to the parents.

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2   This definition is taken from the Child Welfare Act (1992), now repealed. In the new Act of 2021, the wording has been slightly reformulated. See the Child Welfare Act (2021), Section 9-1.

3. The CWS visits the foster home at least four times a year. The CWS shall provide necessary advice, guidance and support for the full duration of the placement (Section 7).
4. Foster parents are supervised at least four times a year (Section 9). The municipality is responsible for appointing the supervisor, not the CWS.

A central difference between foster care and what I call 'the foster care model' of our imagined society is that the former is a paid, temporary assignment. The foster care model is not an assignment – parents do not sign a contract or receive payment, and the custodial arrangement is permanent. Also, unlike the foster care arrangement just outlined, becoming a parent does not depend on any form of licensing: birth parents have the right to rear. The division of responsibilities between parents and the state is also somewhat different. Given state agencies' limited presence in the child's life, the role of state agencies is limited to three purposes: to advise, support and initiate measures that protect the child's best interests in cases where there is a risk of serious harm to the child. Like ordinary foster care, parents receive instructions and training prior to birth or adoption, they receive the same level of support as foster parents, and supervision is carried out by a third, independent party. Thus, the foster care model is, in fact, a slightly modified family, where a *limited* level of monitoring is part of the arrangement and state agencies have a more active role both prior to birth and during the child's upbringing than in many (though not all) societies where the family is the main child-rearing arrangement.

Compared to a family, this arrangement seems to involve less risk of objectionable dependency. Since the resources the child needs are provided by two separate parties, foster parents have no monopoly. Supervision by a third independent party reduces the risk of parental discretion being misused. Moreover, since the level of intrusion in the privacy of the foster home is limited, it should not prevent intimacy and natural adult-child interaction. In other words, the authority of parents and public authorities is differently balanced in this arrangement, to better protect children without sacrificing privacy and its associated goods altogether. There are also egalitarian reasons to support the foster care model: Should the family lack resources, the CWS can provide them, at a significantly lower threshold compared to the type of family outlined in this chapter, where there

are stronger restrictions on the access of public services. There is, in other words, improved potential for a more level playing field if we remodel the family in the way just outlined.

Defending the family

At this point, it seems to me that we have built up a serious challenge to organising child-rearing in families. Improved protection of children by rearranging families in the way just outlined comes at a cost, however. To remodel families in the way suggested involves a radical change in the content of the right to privacy. As Schoeman writes, the right to privacy '… entitles the adults of the family to exclude others from scrutinizing obtrusions into family occurrences' (1980, p. 10). Specifically, it diminishes protected privacy in at least three respects: access, information and parental discretionary control. Regarding access, the remodelling of the family removes conditions that limit public intrusion in family life, i.e. intrusion is only permissible if there is risk that the child's parents are harming the child. Families may, of course, occasionally be subject to interventions from public services but, as Archard writes, to access or monitor the family and thus violate privacy, '… official agencies must have just cause to "snoop" rather than simply be exercising a general right to patrol the matter' (Archard, 2010, p. 25). Regarding information about the family, the suggested modifications make monitoring of the family part of the general arrangement, as opposed to a means that may be permissible in special cases. In the arrangement outlined above, then, there is no right to exclude public agencies and public agencies have access to family life. Finally, diminished privacy of access and information affects both parents' space to raise their child without interference and parental conduct. It affects, in other words, parental discretionary space and discretionary reasoning (cf. Molander, 2016, Ch. 2).

These are significant limitations to privacy. If we value privacy, we should reject the suggested remodelling of the family. This leads us to the philosophical problem of defending family privacy. Jeffrey Blustein has pointed out that the basis of our commitment to family privacy seems like '… something of a mystery' (Blustein, 1982, p. 205). Recent contributions to family ethics address the question, however, and provide us with at least three argumentative strategies we might employ to defend family privacy:

1. We might adopt a *child-centric approach* and argue that the child has an interest in family privacy.
2. We might adopt a *dual-interest approach*, where we also appeal to the interests of the parent.
3. We might argue that the solution –reorganising the family to resemble foster care – is worse than protecting family privacy.

A child-centric approach

Let me start with a version of a child-centric approach, with a basis in the work of Harry Brighouse and Adam Swift. While these two authors, in fact, defend a dual-interest approach and appeal to the interests of both children *and* parents, they also claim that when it comes to justifying child-rearing arrangements, children come first (Brighouse & Swift, 2014, p. 59). Their contribution includes a child-centric defence of the family, one that only appeals to the child's interests.

As already noted, Brighouse and Swift argue that a certain relationship is required to realise children's interests. Both children's developmental or future-oriented interests and their present interest in enjoying their childhood are best met, they argue, if children are raised in '… intimate but authoritative relationships between children and a small number of particular adults, relationships in which the adults have considerable discretion over the details of how the children are raised' (Brighouse & Swift, 2014, p. xii, pp. 64–74). To rephrase, they think that children need to grow up in a family, as a small, private and protected arrangement.

Why is that? First, since at least small children are not capable of satisfying their own needs, adults must decide for them: The child needs a paternalistic relationship. Second, a close and intimate relationship, with an attentive and motivated caregiver, is required for the child's development and his/her enjoyment of childhood. That is, such a relationship matters to both future and present-oriented interests (Brighouse & Swift, 2014, p. 72). Third, the child's interests are interconnected; an arrangement that meets the child's emotional needs will also stimulate the child's cognitive development and his/her enjoyment of childhood, and so on. Accordingly, satisfaction of the child's interests and disciplining the child requires a coordinated, consistent effort. Fourth, it is essential that the intimate and authoritative aspects are combined: for example, disciplining a child will often also involve comforting the child, and it is important that the child knows

he/she is valuable to the caregiver when he/she is disciplined (Brighouse & Swift, pp. 73–75). For these reasons, parental authority should only reside with a few people, all of whom should have a close – familial – relationship to the child (Brighouse & Swift, p. 73). Finally, such a relationship should be protected from undue external interference: a monitored, supervised or manual-guided relationship will not develop into the close, intimate relationship of the kind a child needs. The child needs spontaneity, undivided attention and genuine emotional responses (Brighouse & Swift, p. 73).

This argument, if successful, establishes the importance of the family for children and leads Brighouse and Swift to reject alternative arrangements, such as child-rearing in institutions and communal care (Brighouse & Swift, 2014, pp. 70–75). While I shall assume that Brighouse and Swift correctly point out that the parent-child relationship is sufficiently important to deserve protection, it seems unconvincing to hold that the level of state intervention we are presently discussing would impair the relationship between parent and child (cf. Altman, 2018). While Brighouse and Swift reject constant monitoring, manual-based parenting, etc., such a level of intrusion or management of parents does not characterise the arrangement I propose. Insofar as the arrangement can facilitate relationships of the kind the child needs and improve protection, it seems difficult to reject from a child-centred viewpoint. The central point is that Brighouse and Swift's child-centric arguments support a familial relationship, but not the family. If the familial relationship is realisable in the arrangement I propose and my proposal is a better way to address the problems of inequality and the care monopoly, then the foster care model seems compatible with their child-centric view.

Regarding the promotion of valuable parent-child relationships, the foster care model might even be an improvement. First, the kind of attentive parenting Brighouse and Swift describe, while rewarding, is also exhausting, particularly for parents whose children require more intensive care or for parents with other demanding or important commitments. From this perspective, it is not difficult to recognise egalitarian reasons for endorsing the foster care model: a moderate level of support and monitoring of families might allow disadvantaged parents and/or children to spend more time with each other and make that time more stimulating and enjoyable. More generally, a parent-child relationship that can adequately satisfy the child's interests is not something that always develops automatically and, even when it exists, the relationship may face challenges. Many children

(and families) are likely to benefit from training, instruction and support. Moreover, the arrangement is likely to ease parents' access to support from public services.

A related concern is that some level of conflict or coordination problems between parents and public officials seems inevitable in the foster care model. Since the arrangement strengthens the role of public officials in children's upbringing, this can be expected. That being said, the arrangement does not radically transform parental responsibility or the parental role: there is no transferal of decision-making authority from parents to public services as in ordinary foster care, for example. In this respect, then, the level of conflict and coordination problems might not be very different from those that occasionally arise when a family interacts with public welfare services, although mandatory contact will most likely affect conflict frequency.

Critics of the arrangement will surely voice other concerns. Some might observe that many parents will regard the foster care model as threatening or coercive, and react with suspicion and/or unease. Such reactions could negatively affect both the parent-child relationship and cooperation with the CWS. Based on these assumptions, critics could argue that *the perceived threat of state coercion* could impair the familial relationship or undermine cooperation between parents and state agencies. Moreover, parents of disadvantaged children might have particularly strong reasons to distrust the arrangement, because the foster care model licences public officials to implement additional coercive measures if they think it necessary. Thus, the critic could argue that the foster care model makes some children, disadvantaged children in particular, worse off. Some will also point to the unfairness of subjecting all families to this level of intrusion when only a minority of children are at serious risk.

Regarding the first point, on the perceived threat of additional coercive measures, we might distinguish between two versions of this argument, respectively regarding the foster care model itself and its reception. The critical argument above seems to mainly concern the latter. Thus, one possible response is that this argument certainly is relevant to questions on how to implement the foster care model. But it is less obvious why some parents should be particularly sceptical to the foster care model *itself*. Sceptics could, however, target the model by questioning the discretionary powers of the CWS. They could argue that the foster care model allows individual agents to *arbitrarily* intervene in families beyond a minimum

level and thus undermine the level of privacy required to secure the familial relationship with its associated goods.

There are at least two ways to address this. The first is to clarify the conditions for when public services' support and monitoring can exceed the general minimum requirements of the foster care model. At this point, I merely assume that reasonably clear conditions can be established, although I discuss a related issue below, in the section on reasonable pluralism. The second way to address the problem, anticipated in the outline of the foster care model, is to ensure that the arrangement is supervised by an independent agency.

Regarding the unfairness of subjecting all families to the level of intrusion of the foster care model, one response is that mandatory measures of this scope are required to ensure that those children who are most in need of such measures, receive them (cf. Gheaus, 2011, p. 509). Also, there are other mandatory arrangements that to some degree restrict family privacy and parental discretion that we do not regard as objectionable. Mandatory education, for example, is not only about learning but involves a level of monitoring of children and parental practices, as well as the requirement that teachers notify the CWS if they believe there are serious deficiencies in how the child is being cared for (cf. The Norwegian Education Act, 1998, Section 15 (3). See also Gheaus, 2011, p. 498). The critic must explain why coercive arrangements of this kind might be permissible while arrangements that target the family in other ways are not. Again, I will return to this issue in the last section.

Parental interests

Although a couple of issues were left open in the previous section, we can still conclude that none of the arguments above establish that the foster care model is an arrangement that would undermine the parent-child relationship. Insofar as children have an interest in the familial relationship, they have little reason to reject the foster care model. However, children are clearly not the only party affected by the arrangement I propose. We should also consider the interests of parents. As noted, Brighouse and Swift do in fact defend a dual-interest approach where parental interests matter, particularly when addressing why someone might have a right to engage in parenting (Brighouse & Swift, 2014, p. 95). In their view, however, the content of parental rights and privileges is based on the child's interests

(Brighouse & Swift, 2014, p. 74). But if the foster care model is in children's interests and these interests are the basis for parental rights, the foster care model seems compatible with at least those parental interests that are sufficiently important to ground rights.

Thus, I draw on another approach, developed by Norvin Richards. In *The Ethics of Parenthood* (2010), Richards bases parental rights on the following principle: '… we have the right to act as we choose if our actions are suitably innocent with regards to others' (Richards, 2010, p. 22). Phrased differently, others have no right to interfere with our 'projects' – such as starting a family – unless our projects harm others. The implication of Richards' view is that interfering in the family is wrong, unless this individual project imposes harm on others, for example the child. This raises the question of when state intervention in the family is permissible. Richards restricts permissible interference by state or public agencies to cases of neglect or abuse (Richards, 2010, Ch. 4). This does not mean that Richards thinks parental obligations amount to avoiding neglect or abuse: on the contrary, his view is that parents should promote good lives for their children. The condition for *state interference* in the family is abuse and neglect, however.

Richards' theory leads to the conclusion that it is impermissible to reorganise the family in the way suggested unless the parent, in fact, agrees to it. In particular, the level of public intervention in the foster care model is disallowed according to his theory: In the foster care model, public interference in the family project is permitted even when there is no evidence of neglect and abuse. Family support and supervision, for example, are preventive measures, intended to both help the family flourish and to forestall the possibility of future harm. This level of interference in the 'parental project' is disallowed by Richards' theory. He would deny the state any role in shaping the family.

Richards provides us with another explanation of why family privacy should be protected. Further considerations could also be added in support of his theory. It permits a wide variety of ways to raise children, which might benefit both children and parents, since it gives children and parents ample space to satisfy individual needs and preferences. Moreover, society may also be enriched by the variation in children this arrangement is likely to produce. Richards can therefore appeal to the interests of parents, children and society as support for his claim regarding the importance of liberty.

It is tempting to ask how important this liberty is for children who do not benefit from having resourceful, attentive and caring parents. On the one hand, such a strong restriction on state intervention makes the state largely unable to do much about objectionable inequalities. On the other hand, some of the less fortunate children may have reason to object to the level of protection they are granted. It is hardly desirable to suffer neglect or abuse before the state intervenes. These children, and children in general, have an interest in preventive measures – regulations that can forestall harm.

Moreover, Richards' description of the family as a 'project' misconstrues the nature of parents' liberty to raise their children. As Gheaus has argued, because children have full moral status, one cannot claim legitimate authority over them by appealing to one's own interests (e.g. Gheaus, 2017). While people may prefer to have their parental projects protected, the fact that it is *theirs* cannot justify a right to non-intervention. A plausible justification of the right to non-intervention must also be based on the child's interests, but if the claims made in this chapter are correct, this level of parental liberty is not in children's interests. More generally, if children's interests limit parental rights, as Brighouse and Swift, and Gheaus claim, then it is hard to see how appealing to parental interests could provide us with an argument that rules out the foster care model.

Reasonable pluralism

This leads me to the third strategy for defending family privacy. The strategy involves rejecting public care as a possible solution, because state intervention in the inner workings of the family is incompatible with reasonable pluralism. To make this point, I draw on insights from John Rawls. As we recall, Rawls recognised some of the problems of the family, but he dismissed the idea of abolishing the family. I suspect he would also have been sceptical to the limited state interference in the inner workings of the family proposed in this chapter (see e.g. Rawls, 1999b, pp. 595–601). Very briefly, a Rawlsian case against interfering in the inner workings of the family might be outlined in this way:

1. Raising children involves drawing on substantive values and beliefs about what is good for the child, for example, experiences from our own childhood, psychological theories or religious views. In Rawlsian terminology, we draw on 'doctrines' of what is good for the child.

2. There is a plurality of such doctrines, and many of these are reasonable.
    But people's beliefs and values, while reasonable, are not always com-
    patible. With Rawls, we might call this 'the fact of reasonable pluralism'
    (Rawls, 2005).
3. A tolerant society permits reasonable pluralism. Insofar as parents do
    not seriously wrong their children, it should be permissible to raise
    children in different ways and based on different values and beliefs.[3]
4. If raising a child involves employing substantive conceptions of what
    is good for the child, then state agencies involved in child-rearing will
    also employ such conceptions.
5. This implies that universal and mandatory forms of intervention in the
    inner workings of the family will necessarily conflict with alternative
    reasonable doctrines of what is good for the child.
6. Therefore, such an arrangement is intolerant.
7. Therefore, we should reject such an arrangement.

In other words, we do not want to give public agencies the power to define
and enact a particular comprehensive conception of what is good for chil-
dren. To this, one might reply with Rawls, that public officials can only
properly exercise power '… when it is exercised in accordance with a con-
stitution the essentials of which all citizens as free and equal may reason-
ably be expected to endorse in light of principles and ideals acceptable
to their common human reason' (Rawls, 2005, p. 137). Thus, one might
argue that insofar as public officials exercise their powers within these
constraints, the argument above loses most of its force. However, Rawls
points out that these principles do not inform us how to raise children
(Rawls, 1999b, p. 598), which raises the question of how public officials
could reconcile these constraints with the type of involvement in the family
they are charged with. One answer, perhaps, is that parental consent must
be obtained for intervention beyond the minimum level. Still, there is a
distinct possibility that confusion about which interventions are justifiable
as 'promoting the (impartial) good' and those that require consent can lead
to mistakes. Moreover, since human beings are fallible, it is unlikely that

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3   This premise is somewhat controversial. It rests on the assumption that it is permissible for parents to
    raise their children according to their own convictions, what Matthew Clayton refers to as 'comprehen-
    sive enrolment' (Clayton, 2006, 2012). Here, I assume but do not defend Brighouse and Swift's view that
    parenting does not and should not resemble the impartiality we expect from public officials (Brighouse
    & Swift, 2014, p. 170), and that parents can raise their children in accordance with their own (reasonable)
    beliefs.

all public officials will always operate within constitutional constraints once they enter a family, even when they actively attempt to do so. Such considerations should also reduce faith in supervision as an effective way to deal with this problem. In sum, the foster care model seems at best able to provide arbitrary protection for many reasonable forms of child-rearing.

Another concern, formulated by Norvin Richards among others, is that giving state agencies the power to instruct parents how to raise their children is a slippery slope. There is no clear limit on what state officials might do under the justification of 'promoting the good', and once the first barrier into family privacy is traversed, it is increasingly difficult to resist further invasive steps. Thus, as Norvin Richards points out, a parent's power to form the child's life is '… not a power we should want to centralize, if we believe individuality is important' (Richards, 2010, p. 13). He notes, for example, that it seems inevitable that the state will make forays of its own into 'value inculcation in children' (Richards, 2010, p. 13).

The conclusion based on the observations made in this chapter, then, is that the best way to balance reasonable pluralism and tolerance with the protection of children is to permit child-rearing in a family arrangement where state agencies can only intervene under some suitably restrictive conditions, or where family life is more independent, or private, than in the foster care model (see also Munoz-Dardé, 1999, pp. 48–49). This does not mean that the existing division of rights and responsibilities between parents and the state should not be adjusted. Insofar as the child-rearing arrangement in our society is compatible with pluralism and the realisation of relationship goods, there is little reason to reject proposals that increase the state's role in children's upbringing. For example, the arguments in this chapter do not rule out Gheaus' proposal of mandatory enrolment in day-care centres and school (2018a). Rather, they provide additional justification for her proposal. Unlike the foster care model, Gheaus' proposal is permissible: it provides children with the protection of other caregivers without creating an objectionable interference in the inner workings of the family. The interference in parental discretion she suggests is compatible with the claims advanced in this chapter.

In a similar vein, the chapter provides egalitarians with some reasons to focus on other ways to address inequality than to radically rearrange the family. First, it provides egalitarian reasons to protect family privacy. That is, it echoes Brighouse and Swift's view that familial relationship goods should be regarded as part of a theory of justice. Second, I have claimed that

family privacy is a component of a pluralistic society. Protecting privacy, at a certain level, is therefore an important means to provide children (and citizens in general) with opportunities to form their own conception of a good life. To these, we can add considerations that, despite their different content, direct egalitarians' focus elsewhere. Gheaus, for example, suggests that abolishing the family fails to remove the problem of inequality because children would still be exposed to different forms and levels of care by caregivers with different abilities and levels of commitment (Gheaus, 2018b).[4] Some level of inequality will, no doubt, persist as long as we have families, and not only should we be ready to accept this (see also Fishkin, 2014), but we should accept that it is difficult to imagine any form of child-rearing that could fully realise equality of opportunity. Finally, insofar as Macleod correctly claims that there need be little conflict between family values and equality of opportunity in a suitably non-hierarchical society (Macleod, 2018), there is hope that progress can be made without sacrificing family privacy.

Conclusion

In the end, what we seem to be left with is to accept that the family is far from an ideal arrangement. As a defence of the family, this is an example of what Archard calls a 'Churchillian defence' (Archard, 2010). The family is, on balance, probably better than the alternatives.

One possible lesson from the previous discussion is the following: it might be difficult to justify family privacy and parental discretion if we exclusively appeal to the child's interests. Even a dual-interest approach, appealing to the interests of parents and children, seems insufficient. Due to the nature of the problems with the family, such approaches should be supplied with broad principles concerning how to organise the basic institutions of society. I have, very briefly, outlined one possible Rawlsian response. If we accept this argument, then general and non-voluntary public intrusions in the family of the kind discussed here are impermissible. This, it seems to me, helps clarify both where the demarcation line is between public and private responsibilities and prerogatives in child-rearing, and

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4   This does not preclude the possibility that egalitarians could (and should) be concerned with other aspects of how we organise families, such as inheritance, or how child-rearing responsibilities are divided between parents and the state. On this point, see e.g. Brighouse & Swift, 2014; Engster, 2010; Munoz-Dardé, 1999.

provides an explanation for it. Importantly, the arguments above also suggest that toleration should remain an important concern and limitation for the CWS, even in cases where they can justifiably intervene. It seems to me that when promoting a child's interests, the restrictions on agents of public services remain: they should not be permitted to enact a particular comprehensive conception of what is good for the child. A possible implication of this chapter is that promotion of the child's best interests must be compatible with the principle of toleration just outlined. Thus, this implication possibly illustrates one way in which this chapter overlaps with other chapters in this book where the authors refer to balancing requirements in the European Human Rights Convention (see Netland, Chapter 9, and Fauske, Bennin & Buer, Chapter 1). This chapter provides some ideas of what kinds of considerations such balancing might entail.

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References

Altman, S. (2018). Parental control rights. In E. Brake & L. Ferguson (Eds.), *The philosophical foundations of children's and family law* (pp. 209–226). Oxford University Press.

Archard, D. (2010). *The family: A liberal defence*. Palgrave Macmillan.

Blustein, J. (1982). *Parents and children. The ethics of the family.* Oxford University Press.

Brighouse, H., & Swift, A. (2006). Parents' rights and the value of the family. *Ethics, 117*(1), 80–10.

Brighouse, H., & Swift, A. (2014). *Family values. The ethics of parent-child relationships*. Princeton University Press.

Clayton, M. (2006). *Justice and legitimacy in upbringing*. Oxford University Press.

Clayton, M. (2012). Debate: The case against the comprehensive enrolment of children. *Journal of Political Philosophy, 20*, 353–364. https://doi.org/10.1111/j.14679760.2011.00397.x

Engster, S. (2010). The place of parenting within a liberal theory of justice: The private parenting model, parental licenses, or public parenting support? *Social Theory and Practice*, *36*(2), 233–262.

Fishkin, J. (2014). *Bottlenecks*. Oxford University Press.

Gheaus, A. (2011). Arguments for nonparental care for children. *Social Theory and Practice*, *37*(3), 483–509.

Gheaus, A. (2012). Is the family uniquely valuable? *Ethics and Social Welfare*, *6*(2), 120–131. https://doi.org/10.1080/17496535.2012.682499

Gheaus, A. (2017). Sufficientarian parenting must be child-centered. *Law, Ethics and Philosophy*, *5*, 189–197. https://doi.org/10.31009/LEAP.2017.V5.16

Gheaus, A. (2018a). Children's vulnerability and legitimate authority over children. *Journal of Applied Philosophy*, *35*(S1), 60–75. https://doi.org/10.1111/japp.12262

Gheaus, A. (2018b). What abolishing the family would not do. *Critical Review of International Social and Political Philosophy*, *21*(3), 284–300. https://doi.org/10.1080/13698230.2017.1398449

Goodin, R. E. (1985). *Protecting the vulnerable. A reanalysis of our social responsibilities.* University of Chicago Press.

Macleod, C. M. (2018). Equality and family values: Conflict or harmony? *Critical Review of International Social and Political Philosophy*, *21*(3), 301–313. https://doi.org/10.1080/13698230.2017.1398476

Ministry of Children and Equality. (2003). Foster home regulations [Fosterhjemsforskriften]. Retrieved 12 October 2023 from https://lovdata.no/forskrift/2003-12-18-1659

Molander, A. (2016). *Discretion in the welfare state. Social rights and professional judgment.* Routledge.

Munoz-Dardé, V. (1999). Is the family to be abolished then? *Proceedings of the Aristotelian Society*, *99*, pp. 37–56.

The Norwegian Child Welfare Act [Lov om barneverntjenester]. (1992). Lovdata. Retrieved 12 October 2023 from https://lovdata.no/lov/1992-07-17-100

The Norwegian Child Welfare Act [Lov om barnevern]. (2021). Lovdata. Retrieved 12 October 2023 from https://lovdata.no/lov/2021-06-18-97

The Norwegian Education Act [Lov om grunnskolen og den vidaregåande opplæringa]. (1998). Lovdata. Retrieved 12 October 2023 from https://lovdata.no/lov/1998-07-17-61

Rawls, J. (1999a). *A theory of justice* (revised ed.). Harvard University Press.

Rawls, J. (1999b). The idea of public reason revisited. In S. Freeman (Ed.), *John Rawls: Collected Papers*. Harvard University Press.

Rawls, J. (2005). *Political liberalism* (expanded ed.). Columbia University Press.

Richards, N. (2010). *The ethics of parenthood*. Oxford University Press.

Schoeman, F. (1980). Rights of children, rights of parents, and the moral basis of the family. *Ethics*, *91*(1), 6–19.

Vallentyne, P., & Lipson, M. (1989). Equal opportunity and the family. *Public Affairs Quarterly*, *3*(4), 27–45.

CHAPTER 11

Family Ethics and Child Welfare

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Abstract: In modern philosophy, family ethics has developed as a separate field of study. Central questions in family ethics are what a family really is, how parents have a right to decide over their own children and how children have a right to a family. In this chapter, I focus on a well-known version of family ethics, namely Brighouse and Swift's (2014) influential 'justification of the family'. If their arguments are plausible, then they have significant implications for how child welfare workers should work with children and their families. The aim of this chapter is to discuss Brighouse and Swift's position critically, in order to assess the justification of these implications. In a reasonable interpretation of their arguments, they seem to defend a general paternalistic attitude towards children based on the view that children are 'adults in progress'. But this defence fits poorly with important considerations in the exercise of power in child welfare and a modern view of children as competent actors. A possible strategy to salvage some of the strength of Brighouse and Swift's arguments would be to argue that the conclusions are meant to be tentative, and that they need to be filled in contextually in practical child welfare work. But the problem is that the conclusions do not even seem reasonable as *prima facie* guidelines for practice in the complex collaborative relationships child welfare workers are involved in. In the final section, I discuss how the arguments in the chapter affect the philosophical validity of Brighouse and Swift's views, while also illustrating a general point: some normative principles that may seem reasonable in some contexts of child welfare work may be unjustified in others. The extent to which such principles should guide practice must therefore be considered contextually.

Keywords: family ethics, child welfare, philosophy, paternalism, autonomy

Introduction

Child welfare (CW) work with families is dynamic and contextual. CW workers normally work in collaborative relationships over time, with complex relational problems and situations that can change to a great extent. Two situations that, on the 'outside', may seem quite similar, may to a large extent require different understandings and approaches 'from within'. It is the contextual reality – and often different understandings of reality – that will and should form the basis for decisions and actions (Munro et al., 2017; Munro, 2020; Fluke et al., 2021).

At the same time, there are some general principles that govern CW as a professional practice. These principles can be understood as the core of the framework that identifies CW as a form of social work. In CW work, working for the 'best interests of the child' is paramount, but also principles such as protection, participation, the principle of least intervention, the biological principle and developmental attachment are central (Berrick & Altobelli, 2018). CW workers have a professional duty to acknowledge and balance relevant principles and, particularly with regard to the 'best interests of the child', be able to document how they are interpreted and applied in justifications for important choices of action.

It is the profession-identifying principles in CW work that naturally receive most attention in the professional literature on the core tasks in this area of social work, and many of the principles are also incorporated in legislation. At the same time, there are other academic perspectives and concepts that constitute important approaches in CW work. These can come from different forms of theoretical and empirical research in fields such as the natural sciences, social sciences and humanities. A typical example is trauma-based care (TBC), an approach to practice that has received a lot of attention and is rooted in psychology, the natural sciences and social pedagogy (Ko et al., 2008; Conners-Burrow et al., 2013). Common to TBC and many other methodological perspectives on CW work is that they are grounded in the idea that research and professional development in other disciplines can be valuable resources in CW work.[1]

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1   There are many online resources that specify 'practices' for ways of working in CW and social work more generally. For TBO, see for example, The Importance of a Trauma-Informed Child Welfare System. In general, 'external' methodological perspectives in CW work are often put forward as thoroughly based on research, but critics have argued that it is not possible (or correct) to base many important decisions in CW work purely on the basis of findings in empirical studies.

In this chapter, I will explore an approach to CW work with vulnerable children and their families that is important, but which has not received much attention in the academic literature on CW. I will focus on family ethics – a branch of philosophical ethics that has been much discussed in recent years (Scales et al., 2010; Bøyum & Gamlund, 2017). The basic issue in family ethics is to clarify the moral status of a family as an entity with intrinsic value and a greater or lesser degree of autonomous rights.

Within family ethics, there are different theories that defend different views on the essential value of a family. It falls outside the scope of this chapter to go into the various approaches. I will focus on a well-known contribution to family ethics developed by Harry Brighouse and Adam Swift (2014) in their book *Family Values: The Ethics of Parent-Child Relationships*. A main aim of their book is to develop a view of how parents have the right to decide over their own children, 'a basic justification of the family, understood as a way of raising children that gives parents an important sphere of discretion over their children's lives' (2014, p. 5).

The aim of this chapter is to discuss the extent to which Brighouse and Swift's justification of the family seems reasonable as a normative position, with particular regard to ways of thinking about power, paternalism and children as competent actors. The discussion is particularly important in CW, because parents' right to decide over their own children, and children's competence and right to participate in decision-making processes that affect them, are key dimensions in this kind of social work. As I will show, Brighouse and Swift's arguments have substantial significance for how CW workers should assess paternalism, parental cooperation and children's rights and participation. If their arguments are sound, they also provide sound guidance on how CW workers should think and work with children and their parents.

Methodologically, this chapter falls under applied philosophy and, more specifically, critical discussion of normative theory. In applied philosophy, it is common to examine philosophical theories in-depth, to examine the arguments for the theories and the practical implications they have in given areas. This is especially important when a theory has been influential, as is the case with Brighouse and Swift's justification of the family.[2] The discus-

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2   Moreover, in a reasonable sense of 'child welfare', the theory falls under what can be termed 'CW literature'. CW is an interdisciplinary area, and ethical theories about families and paternalism towards children can in themselves be important professional resources in CW work.

sion in this chapter is also based on the methodological assumption that if a normative position is reasonable, then it cannot have practical implications that are unreasonable. This is a general principle, so it is possible to use different areas of application to evaluate a theory. Consequently, if Brighouse and Swift's theory has unreasonable implications in CW work, then this constitutes a criticism of the theory.

Further on in the chapter, I first argue that Brighouse and Swift's arguments are very abstract, making it challenging to understand just why they believe that 'adults have a duty to manipulate and coerce children into doing what will be good for them' (2014, p. 70). In a reasonable interpretation, however, I argue that their arguments seem to be based on assumptions about paternalism and children that fit neither with a modern view of children as competent actors nor the contextual reality of CW work. Brighouse and Swift may attempt to defend their position by holding that they only want to develop some general conclusions that need to be critically interpreted in practice. But then the question becomes how these conclusions are to be understood in order to have substantial normative force. On a general level, an important conclusion of the discussion will be that it is difficult to grasp the reality of CW work – and provide valuable input for practice – if this reality is viewed through categorical lenses.

The philosophical defence of the family

Where Brighouse and Swift are concerned with the concept of family, they link this to questions about how families have the right to privacy and what interests parents and children have as families. For Brighouse and Swift, the interests go both ways. Parents have an interest in deciding over their own children, but children also have 'a crucial interest in a relationship in which they are subject to their parents' authority' (2014, p. 5).

Brighouse and Swift note that this needs to be qualified. The right is 'limited by the duty to provide what children need (and what *they* have the right to)' (2014, p. 5). Immediately, one may wonder what this implies. For what do children really need? In a narrow understanding, 'what children need' can be linked to basic primary needs such as food and sleep. In a wider understanding, one can go further up Maslow's hierarchy of needs, as it describes how some needs are more fundamental than others (Navy, 2020). It goes without saying that it requires less to meet children's

needs if 'needs' are understood as primary needs and not those higher in Maslow's hierarchy.

Another important point is that children are different, in age but also in maturity. It is obviously more often correct to decide over very young children than children who are soon to be adults. At the same time, talking about *children* as a uniform concept runs the risk of developing rigid analyses that do not fit with the variety of children. Children are different in many ways, including children of the same age.

Problems surrounding this type of complexity of key concepts will be a common thread further in this chapter. For now, it should be noted that it would be unfair to Brighouse and Swift to rely solely on an introductory reading of their view that children should be 'subject to their parents' authority. It would also be unfair to claim that they do not explain at all how they understand the idea of 'what children need'. Further on I will discuss their views in more detail, by examining their main arguments before linking this discussion more explicitly to CW work.

Children's rights

The basic arguments Brighouse and Swift present concern paternalism and the content of children's rights. The main argument is a conjunction: '[T]heir interests are such as to make them [children] appropriate objects of paternalistic treatment, and the most suitable setting for that treatment is the family' (2014, p. 67).

In relation to the first claim, they write that 'It seems obvious that paternalism toward infants and very young children is justified, since they lack any capacity for judgment and choice' (2014, p. 67). But this does not seem 'obvious', at least if one considers small children aged three or four. For example, it does not seem 'obvious' that children of this age lack the prerequisites to form relatively autonomous wishes about who they like to play with or how they like to spend much of their time in their homes or social arenas like early childhood education and care (James & Prout, 1997; Hutchby & Moran-Ellis, 1998; Wall, 2010).

The problem here is connected to the fact that Brighouse and Swift say that paternalism *is* (always?) justified (categorically). They do not say that paternalism *can be* or *is often* justified. It is important to remember that parents can act paternalistically towards their own children in ways that are clearly wrong. One can, for instance, imagine parents who use

gross violence against a very young child because they believe, subjectively speaking, that it is 'best for the child'. So a categorical view that paternalism is always justified is obviously incorrect.

It would be unfair to Brighouse and Swift to claim that they are not aware of this problem at all. They refer to Freeman's (2007) well-known arguments for why children have many of the same cognitive capacities as adults and they accept these as 'facts' (Brighouse & Swift, 2014, p. 69). Nevertheless, they believe that 'three observations support paternalism'.

The argument of autonomy

The first 'observation' concerns the prerequisites children have for making autonomous choices, as opposed to the assumptions Brighouse and Swift believe adults have (2014, p. 69):

> First, claims about children's competences should not be exaggerated. Although children are as good as adults at some things and even better at others, it does not follow that they can be agents in a more holistic way. Even quite young children can develop one capacity well, enabling them to make reasonably good decisions about a small range of issues, but that does not justify regarding them as authoritative about their own interests, or anyone else's, outside that small realm.

Now this is not so much an 'observation' as an argument, and an initial problem with the argument is that it seems too general. One can accept that adults are normally better equipped than young children to make knowledge-based, autonomous choices in a number of areas. But it seems unreasonable to believe that paternalism is justified (always?) in situations where children do not have the prerequisites to make fully competent choices. Adults are not always better equipped than children to be 'authoritative about [children's] interests'.

Another key point here is that there are differences between those who fall under the category of 'parents'. Parents may sometimes have wishes about what is best for their children that decidedly should not be respected. Examples may be preferences put forward by mentally ill or drug addicted parents that can be of great harm to their children. We must also distinguish between degrees of paternalism. As I will return to, it is not right for parents to override their children's wishes by using strong forms of force when little is at stake by allowing the children to act upon their wishes.

The same danger of categorical thinking relates to the concept of children. As already mentioned, it is difficult to talk about children as a unified category. Children are simply very different. The diversity of children raises major challenges for Brighouse and Swift's position, and I believe that it could be possible to use facts about this diversity as a main resource in a critical analysis of their arguments. Further on in this chapter, the diversity of children will be relevant, but I will focus more directly on philosophical analyses of power and paternalism in CW contexts.

The argument about consequences

Problems surrounding categorisations are also relevant in the evaluation of Brighouse and Swift's next argument, which is as follows:

> … the special goods of childhood speak in favor of maintaining a paternalistic structure … Providing children with agency rights that employ responsibilities, even if they are capable of the agency in question, may not be an unalloyed good for them, because the responsibility may bear on them in a way that deprives them of a good specific to their stage in life. (2014, p. 69)

Immediately this seems unintuitive. To use paternalism is to use power, and should one use power against other persons simply because they should not have to be responsible for what they would otherwise have chosen to do? The same line of reasoning could apparently have been used as an argument for (so to speak) imprisoning adults for life, because they then avoid the 'burdensome' freedom to choose and take responsibility for their own actions as ordinary citizens. But this, of course, is unreasonable. We value freedom more than imprisonment.

The problem is that it is difficult to see the crucial difference between adults and children in this respect. Children, as with adults, and even including young children who have reached a certain age, have, by and large, an interest in making a variety of free choices. Of course, there are some choices children are happy they do not have to make (but adults can also be happy not to have to make a lot of choices). But that does not support the *general* view that children want adults to decide for them.

Another important point is that there is a difference between influencing children's choices by supporting and helping them, and exercising paternalism over children. Giving good explanations in communication with children, and creating and securing relations, can help strengthen

children's competence to make autonomous choices, but it is not paternalism. Moreover, we must distinguish between degrees of child paternalism. Strongly encouraging children to do something is a milder form of power than commanding them. An extreme position would be to argue that strong use of power is justified to safeguard children's interest in not having to decide for themselves. I do not mean to argue that this is Brighouse and Swift's view, but the point is that their argument, as stated, does not exclude this interpretation.

The argument of liability

Brighouse and Swift's third argument is also unconvincing. They argue that giving children the responsibility to make their own choices can be so burdensome or resource-intensive that it affects their other developmental resources. They use as an example children who are prematurely accepted into the labour market and who are 'unlikely to reach the levels of literacy and numeracy that would enable them … to reflect on their life situations to make the best of them' (2014, p. 69). But then in the next sentence, they draw a parallel that is more problematic: 'Similarly, too much responsibility too early may be detrimental to the child's healthy emotional development.'

In a way, it is not hard to accept this, but what exactly is meant by 'too much'? We can all agree that 'too much' is 'too much'. But what is 'too much'? From what Brighouse and Swift say, it seems that they mean to argue that even a little bit of responsibility is too much for children, so that it becomes important for parents to have a general paternalistic attitude. This is also supported by their summary of the three arguments I have presented. They conclude that, 'in broad terms, adults have a duty to manipulate and coerce children into doing what will be good for them' (2014, p. 70).

In sum, it seems clear that Brighouse and Swift understand 'parents' right to decide' in a broad sense. Above I pointed out that they make an initial reservation about respecting what 'children have a right to'. In light of what we have now seen, it is reasonable to assume that they understand this right narrowly. Their conclusion seems to be that parents to a very large extent can and should decide over their own children. But this conclusion seems counterintuitive, and I have argued that the premises for the conclusion do not seem reasonable.

Degrees of power

I have so far presented and discussed some of Brighouse and Swift's main arguments for their 'justification of the family'. It might have been possible to go into more depth in relation to the arguments, but a main point should be clear: It is difficult to defend a *general view* of how parents have the right to decide over their own children. Further on I will elaborate on this point in more detail, by focusing on paternalism, children's rights and the complexity of practical CW work.

Paternalism

In the philosophical debate about paternalism, theorists have developed a number of distinctions. One very important one is the distinction between paternalism over (1) wishes that are not autonomous, and (2) wishes that are largely based on autonomous considerations. The latter form of paternalism is not only highly problematic in relation to legislation that emphasises participation and freedom of choice. It also fundamentally violates the philosopher Kant's influential moral imperative to respect other people's autonomous wishes, as this kind of thinking is also central in ordinary CW work (Nordby et al. 2021).

Wulff et al. (1990) describe the two forms of paternalism, (1) and (2), as genuine and undesired paternalism. While the former is paternalism over persons 'whose autonomy must be regarded as abolished or diminished to varying degrees,'

> … the form of paternalism that creates serious ethical problems, is undesired paternalism. That is, the situation of acting paternalistic over an autonomous person who has not asked for this course of action. There can be no doubt that, from a Kantian point of view, it is always morally reprehensible to disregard the autonomy of the individual.

The ethical problem of not accepting autonomous wishes is general. In any discussion of how paternalism can be justified it is therefore relevant to focus on the concept of autonomy. One needs to make assumptions about a person's autonomy in order to determine the justification of paternalism. This is thus also relevant in considerations of how parents have a right to overrule their children's wishes. It is, independently of other considerations, more justified for parents to act paternalistically in situations where children do not express very autonomous wishes than in situations where

children express autonomous wishes. The same kind of considerations about autonomy are fundamental in CW work, when CW workers need to decide whether children's wishes or parents' wishes should be accepted. It is, independently of other considerations, more justified to be paternalistic when children or parents do not express autonomous wishes.

Here the qualification 'independently of other considerations' is important. How much power it is justified to use can never – even in the case of genuine paternalism – be assessed in a vacuum. It can never be right to act paternalistically *just* because other persons' wishes are not very autonomous. The degree of paternalism – the actual exercise of power – depends on what is at stake by allowing others to act in accordance with their wishes. The justification for paternalism must always be weighed against the consequences of letting others decide. It is not justified to override wishes that are not very autonomous – if, for example, they are expressed during intoxication or strong affectivity – if complying with the wishes has no negative consequences.

In other words, the degree of paternalism must always be assessed against two dimensions. One is how autonomous the wishes are. The second is what the consequences will be of letting others act upon their wishes. It is a sound ethical and legal principle – which is central also in CW work – that the greater the negative consequences of letting others act as they wish, and the more they have lost (or never had) the ability to make autonomous choices, the more justified it is to act paternalistically. But this also applies the other way around. If a person, including a child, has relatively autonomous wishes and if letting the person act upon these wishes will not have a substantial negative impact on the person or a third party, then the person should be allowed to act upon the wishes.

Ethically, these are general principles that should not be linked to formal frameworks such as age but rather to a person's actual competence to make reflected choices in a given context. In CW work, this is acknowledged in principles that emphasise the importance of making individual assessments about autonomy. This may, for instance, result in situations in which a 12-year-old is considered to be more reflective about his or her own care situation than parents with limited abilities to understand what is best for their child.

More generally, there are often difficult considerations that must be made in CW workers' assessments of paternalism in relation to parents or children, not only about their real competence to make autonomous choices

but also about the risk of negative consequences. In some situations, there is a lot at stake but time is not urgent, so that CW workers have time to make thorough and systematic risk assessments, often by using models for calculating risk. In other situations, CW workers can or must make more informal assessments 'there and then', either because it is highly unlikely that the negative consequences of letting parents or children decide for themselves are very serious, or because action must be taken quickly. This complex and dynamic dependency of assessment of power and consequences is crucial, both in ethics and law, but it cannot be traced in Brighouse and Swift's arguments for paternalism in relation to children.

Autonomy and participation

In Brighouse and Swift's defence, it should be said that they actually say something about autonomy and children's right to decide as important considerations. They write as follows:

> The capacity to reflect on one's life choices, to be aware that it is possible to live one's life in very different ways, to make a reasoned judgment about which way is right for one, and to act on that judgment – that is indeed very valuable, and parents who raise their children in such a way that they lack autonomy do them wrong. (2014, p. 15)

There seems to be a tension between what Brighouse and Swift state here about respect for children's autonomy, and what they write about parents' right to exercise paternalism, as cited earlier. For if parents are to respect and strengthen children's autonomy, how can it also be correct that parents, as Brighouse and Swift (2014, p. 70) say, 'in broad terms' should 'manipulate and coerce children into doing what is good for them'?

As I understand Brighouse and Swift, they believe that the idea that children can make many autonomous choices is counterfactual. They agree that *if* children could make many autonomous choices, then the wishes of children should be largely respected. But they believe that children do not actually have this ability. This is evident, for example, when they say they support Burtt's view of how

> … children are adults work in progress. The reason we exclude them from the community of social and political equals is that they lack a range of social, emotional and cognitive capacities that cannot be developed apart from their subordination to caring adults … the way we think of children and their needs determines the sort of authority we think it is appropriate to exercise over them. (Burtt, 2003, p. 258)

Since they consider children to be 'adults work in progress', Brighouse and Swift believe that the principle of respecting autonomous wishes is not particularly relevant when it comes to children and that this justifies a fairly general paternalistic attitude. But this fits poorly with the widespread view that children can make a range of reflective choices in important areas of their lives. Since the beginning of the 2000s, the discussion about children's participation has been characterised by a recognition that children are competent actors, and this recognition has become increasingly influential in CW work.[3]

Note also that even if one thinks that children can make autonomous choices to a very limited extent, Brighouse and Swift's position is still incompatible with the assumption that wishes that are not very autonomous should be respected as long as respecting them does not have negative consequences. It is far too one-sided to say that children's wishes can generally be overridden, in private or professional contexts, since they lack the prerequisites adults may have to make competent choices in many areas.

The same point about the danger of one-sidedness is relevant to other principles related to paternalism. Consider, for instance, the principle of child participation which is central in CW work. It is not controversial to hold that children should not be allowed to participate (in some given sense) in decision processes that concern them, if that participation has major negative consequences for themselves or others and if the negative consequences can be avoided by not letting them participate. But this does not mean that children, on a general basis, should not participate. Firstly, many children may be well-placed to understand the consequences of their own wishes and preferences. Second, there are many small (and big) choices children can make that do not have major negative consequences.

The importance of aiming for participation and dialogue is equally important in communication with parents. Even when parents have wishes that are considered to have negative consequences for their children, it is important for CW workers to use as little power as possible in the dialogue with the parents, in accordance with the principle of least intervention. Good dialogue and the use of explanatory skills can reduce the probability of conflict escalation that can result in conflicts so large that voluntary

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3   In 1997 James & Prout argued that '[C]hildren must be seen as actively involved in the construction of their own social lives, the lives of those around them and of the societies in which they live. They can no longer be regarded as simply the passive subjects of structural determinations'. At the time, this was relatively controversial, but it has gradually gained ground as a widespread view.

cooperation seems hopeless. At worst, poor professional communication can contribute to worsening children's care problems.

Child welfare practices

A methodological point in the discussion so far has been that the strength of philosophical conclusions depends on how well they are justified 'from above', based on premises in arguments for the conclusions. I have looked at key arguments in Brighouse and Swift's justification of the family and raised objections to them. These objections touch not only on the philosophical basis of their position, but also on how justified it is as a normative position. If the premises of their arguments are unjustified, then the practical implications of their position are also unjustified 'from above'.

There is a supplementary approach to assessing normative theories, namely by assessing whether they have reasonable implications. Discussions of this kind are also, in an important and often underrated sense (at least in philosophy), linked to justifications of theories: If a theory has unreasonable practical implications, then this constitutes a criticism of the theory 'from below'. In this regard, it is important to remember that normative philosophical theories are normative in all contexts, unless the theories legitimately delineate contexts. *General* philosophical theories can be critically assessed in relation to different areas of practice, and how they seem reasonable in these areas has an impact on how justified they are.

To understand this applied, bottom-up form of justification of theory, we can draw a parallel to traditional ethical theories. Consider, for example, some specific kind of consequentialist theory that states that a certain type of consequence is decisive for whether an action is good. If this does not match robust intuitions about what is right and wrong in an area of practice, then this lack of correspondence cannot be detached from the rationale of the theory.

The same applies to all other normative ethical theories and all formal frameworks for action: How they apply in real life practical contexts is relevant for how justified they are. This cannot, therefore, be different when it comes to Brighouse and Swift's 'justification of the family'. In the following, I will discuss their views more specifically in the context of CW work, which is one of the most important arenas for applied ethics in work with children and their families.

The principles of child welfare

As in other professional contexts, normative implications for CW work, including norms related to paternalism and parents' rights to decide how their children should live, must not only be assessed in relation to a literal grammatical understanding of the linguistic expressions in norm formulations. Norms must be interpreted, sometimes quite differently in different contexts and often in relatively complex decision-making processes. The justification of the norm formulations must be assessed on the basis of how reality is interpreted, how the norm specifications in the formulations are interpreted and how reality matches these interpretations.

These methodological conditions raise fundamental problems for Brighouse and Swift's 'justification of the family' as a normative position. If 'parents have the right to decide over their children' (or something similar) is proposed as a norm, one meets the above problems surrounding degrees of power, autonomy and children's right to decide a great deal for themselves in processes leading to decisions in accordance with the 'best interests of the child'.

An even more pressing problem is that if norms about parents' rights to decide over children are to find their legitimate place in CW work, they must be balanced against other considerations. It does not make sense to discuss them independently of other relevant aspects of the child's care situation. The norms must be assessed in a comprehensive understanding of the child's specific situation, where many different types of professional assessments come into play, at levels or rules, principles and/or theoretical analyses (Kitchener, 1984, Berrick & Altobelli, 2018; Munro, 2020).

Principles have received particular attention in professional CW work. I have already referred to ethical principles about evaluation of consequences and autonomy. These are general value concepts, just like the more common values of justice and solidarity. In addition, CW-specific principles are central to social work with vulnerable children and young people. The principle of the 'best interests of the child' is fundamental as an overall ethical compass, but principles such as protection and the 'principle of least intervention' are also central to CW assessments.

Any principle about parents' right to decide over their children will thus have to find its place among a number of principles, within the overriding principle of the best interests of the child. In CW work, it will typically be necessary to balance principles against each other because in isolation they

pull in different directions. How principles are to be weighed and applied must be assessed in a comprehensive approach where all relevant aspects of the child's care situation are taken into account. Consider, for instance, the principle of least intervention. An intervention in a child's care situation that the parents voluntarily endorse will normally be a non-invasive intervention, and it is a general goal in CW work to facilitate agreement and voluntary cooperation. However, if the parents' wishes are not considered to be consistent with the principle of the best interests of the child, then it may be necessary to override the parents' wishes for the child, so that the intervention is relatively invasive to the family.

All in all, the fact that parents have a right to decide over their own children in many situations is not controversial. What is harder is to determine when parents have this right and what the right involves. This is part of the professional challenge in CW work. When necessary, parents' wishes for their children must be set aside in the way the individual situation dictates – because considerations of the child's best interests weigh heavier.

Paternalism again

At the same time, it is an important principle that paternalism – also vis-à-vis parents – should be used as little as possible. It is always important to create and exploit potential room for agreement in dialogue towards cooperation. Both in the investigation and intervention phases of CW work, good communication with parents can be crucial, both relationally and informatively. Communication is a key to finding solutions, creating voluntary cooperation and avoiding unnecessary use of power. In all dialogue with parents, it is a goal for CW workers not only to gain a good understanding of the child's care situation, but also a shared understanding of the situation, and to base assessments and intervention on a platform of agreement as much as possible.

Again, it is striking how this does not fit with the arguments of Brighouse and Swift. How should the parents' right to decide over their own children be weighed against different forms of communicative strategies and interventions in CW work? CW workers need to think about what is in the best interests of the child. In their assessment of this, the parents' wishes for their children may of course be important, but complying with them is not a core principle, and sometimes the wishes, in isolation, are of little importance.

The problem is that Brighouse and Swift's views add up to an either-or way of thinking. Either parents have the right to decide over their children or they do not. As mentioned previously, Brighouse and Swift state that 'The right is limited by the duty to provide what children need (and what *they* have the right to)'. For one thing, this is vague. But more fundamentally, it would be to misunderstand how CW workers must not only assess when parents should be allowed to decide over their children, but also how they should be allowed to do so (when they should be allowed). It is not only considerations about what children actually need that form the basis for decisions about this. In two situations where the children's needs are relatively similar, other factors in the situations may be relevant.

A possible answer?

Is the criticism I have presented based on a misunderstanding? Was it never Brighouse and Swift's intention to be normative in a substantive sense? Is their idea, perhaps, that their arguments are meant to be tentative, so that they need to be adjusted to various contexts?

In order to address this possible response it can be fruitful to clarify how applied ethics is a form of applied philosophy. What applied philosophy is can be understood in different ways, within conceptual, analytical and critical frameworks. The understanding that is perhaps most relevant in ethics is the methodological understanding of applied philosophy. Lippert-Rasmussen (2017, p. 11) defines this form of applied philosophy as 'the use of specifically philosophical methods to explore issues outside the narrow set of philosophical problems'.

It is important to emphasise that applying philosophy is not the same as applying simple methods in other disciplines. To apply philosophy is to use philosophical perspectives – and not rule-based approaches – to shed light on questions in disciplines that do not initially fall within the pure philosophical disciplines of ethics, metaphysics, epistemology and philosophy of mind and language. Consider, for instance, consequentialist ethics and the consequentialist basic thesis that good actions are actions that have good consequences. Deciding whether an action has good consequences in any applied area cannot be reduced to following a methodical recipe. It must be determined in a given context, because what constitutes a good consequence will normally depend not only on the thoughts and

perceptions of the recipients of actions, but also the situation they are in. But this contextuality does not in itself undermine the principle of creating good consequences. It only clarifies the obvious point that the principle must be understood contextually.

Another example that has received a lot of attention is the Danish philosopher Løgstrup's principle that the natural starting point in communication is to meet others with trust and sincerity (Løgstrup, 2020). Løgstrup acknowledges that it may be right to set the principle aside. His point is that it requires a very strong contextual justification. There must be something that justifies the breach of trust inherent in departing from the principle. In health and social care, a number of positive 'virtue' attitudes have received similar attention. Some of them, such as securing good communication and meeting vulnerable people with care, are often regarded as so fundamental that they are enshrined in legislation as principles that can only be set aside if there is a special justification for doing so.

Much more can be said about applied ethics, but that falls outside the main goal here. The point has been to show that influential principles from philosophical ethics often have been considered to have an intuitive meaning and a natural appeal. But the idea that parents to a very large extent have the right to decide over their own children does not have a similar appeal. Nor is it the case that Brighouse and Swift's qualifications make the idea more reasonable. First, it is not, as shown above, clear how they think that parents' rights can be set aside. Second, their general approach seems to be that children are 'incomplete adults', so that paternalism is justified on a large scale.

All in all, the idea that parents to a very large extent have the right to decide over their own children does not seem like an intuitive general principle. This becomes strikingly clear in CW work, because CW workers need to base assessments and interventions on a number of considerations related to the best interests of the child. CW is therefore an arena where it is particularly easy to find counter examples to the idea.

Prima facie norms and thin meaning

The problems surrounding the normative force of 'parents' right to decide over their own children' can also be linked to what are often referred to as *prima facie* norms in ethics. In social work this is, as Reamer (2014) notes, often understood as:

> … a norm that is binding or obligatory, other things being equal. Common examples include the duty to tell the truth, obey the law, protect people from harm, and keep one's promises. For social workers this would mean that we should not lie to clients about the circumstances in their lives or falsify records about them.

Prima facie norms are not 'absolute'; they can be set aside, but that requires a special justification. For example, it may be ethically acceptable to lie to a psychotic person to prevent them from seriously harming themselves or someone else.

So what if Brighouse and Swift's idea that (1) parents 'in broad terms should manipulate and coerce children into doing what is good for them' is understood as a prima facie norm? The problem is that if a norm is a prima facie norm, then the negation of the norm must seem unreasonable (Dancy, 1996). For example, if 'CW workers should communicate well with families' is to be a prima facie norm, then 'CW workers should not communicate well with families' must seem unreasonable. And this is so. But the negation of (1), that parents in broad terms *should not* manipulate and coerce children into doing what is good for them, does not seem unreasonable. Note that it suffices that the negation does not *seem* unreasonable. The point of prima facie norms is that they should have an immediate, striking appeal as reasonable and the negations of them as unreasonable.

Again, we can also draw a parallel to applied ethics and the principles of creating good consequences and expressing positive basic attitudes as examples of norms that seem reasonable, while their negations seem unreasonable. For example, 'CW workers should aim for creating good consequences for children' seems reasonable. But the negation, that they should not aim for creating good consequences for children, seems unreasonable. The problem is that there are simply too many exceptions to the idea that parents have the right to decide over their own children. Brighouse and Swift paint with a broad brush in an area that requires a contextual approach and the need to balance factors that can pull in different directions independently of each other.

Finally, it may be noted that it also does not help to appeal to a philosophical distinction between thin and substantive meaning. This distinction has traditionally been associated with indexicals such as 'I', 'here' and 'now', expressions that have a general meaning in our language but are filled in with substantial meaning contextually (Braun, 2015). For example, the

thin meaning of 'I' is what all uses of 'I' have in common in our common language, but the substantive meaning is what is filled in in each situation – who 'I' refers to depending on who is using the word in a context.[4]

Similarly, one might suggest, one could distinguish between a thin meaning of 'Parents have the right to decide over their own children' and a more substantive contextual meaning. But the problem is that the distinction between 'thin' and 'substantive' meaning is semantic and not an epistemological distinction connected to justification. Even if there was a thin meaning of 'Parents have the right to decide over their own children' that captures a general understanding, that does not mean that the claim is justified for that reason. To think otherwise would involve a categorical mistake that collapses the distinction between meaning and justification.

Conclusion

Children and their families can have very different needs for help and interventions from CW services. The nature of a given care situation strongly influences to what extent, and how, CW workers should let parents decide over their own children. That parents to a very large extent have this right is an abstract proposition that raises legitimate questions of how such a right should be understood and respected.

Brighouse and Swift might attempt to defend their general approach by arguing that in ordinary families, the right is intuitive. But there is a kind of external control of parental practices even in ordinary families – typically in health centres, early childhood education and care, and schools. One must expect that Brighouse and Swift agree that this should happen and that it can sometimes be right to radically restrict parents' right to decide over their own children. I have argued that CW work is an area that shows how these restrictions are substantially more pressing. The way it is necessary to balance principles and considerations under the umbrella of the best interests of the child strongly suggests that parent-child paternalism

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4   Although the distinction between thin and substantive meaning is strikingly relevant in analyses of indexicals, this does not mean that the distinction cannot apply to other kinds of expressions. For instance, a type of general understanding of a natural kind of term like 'water' can be distinguished from the more substantial meaning that various speakers associate with the word based on their idiosyncratic horizons of understanding.

is far from justified as a general idea. Moreover, I have argued that the idea is not justified 'from above' in a way that possibly could outweigh these problems of application; Brighouse and Swift's arguments are not based on premises that seem reasonable.

In an important sense, the arguments in this chapter represent a defence of a comprehensive approach to children's needs, participation and interpretation of 'the best interests of the child'. In CW work, many considerations must be weighed against each other, and the validity of any particular principle or methodological approach must be determined contextually. Sometimes one gets the impression that theorists explicitly or implicitly 'contribute' to CW work too unliterally, because they present normative views from academic traditions that do not capture the complex and contextual reality of CW work, a reality that CW workers actually have to confront.

A final and even more general point I would like to underline is that the discussion in this chapter illustrates how the status of normative theories cannot be detached from their application. Normative perspectives can sometimes be very abstract and tied to a loose and sometimes quite comfortable and noncommittal idea of 'overarching implications'. In my view, it is not unreasonable to claim that many academic discourses – of which the author of this contribution has also been a part for many years – are too detached from contextual reality. If one is really concerned with how normative views apply in practical reality, then one might sometimes discover that they are not so justified after all.

Author biography

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References

Berrick, J., & Altobelli, E. (2018). *The impossible imperative. Navigating the competing principles of child protection.* Oxford University Press.

Braun, D. (2015). Indexicals. *The Stanford Encyclopedia of Philosophy.* https://plato.stanford.edu/entries/indexicals/

Brighouse, H., & Swift, A. (2014). *Family values: The ethics of parent-child relationships.* Princeton University Press.

Burrt, S. (2003). The proper scope of parental authority: Why we don't owe children an 'open future'. In S. Macedo & I. M. Young (Eds.), *Nomos XLIV: Child, family and state* (pp. 243–270). New York University Press.

Bøyum, S., & Gamlund, E. (2017). Introduction: Family ethics. *Nordic Journal of Applied Ethics, 11*(1), 1–4. http://dx.doi.org/10.5324/eip.v11i1.2259

Conners-Burrow, N., Kramer, T. L., Sigel, B. A., Helpenstill, K., Sievers, C., & McKelvey, L. (2013). Trauma-informed care training in a child welfare system: Moving it to the front line. *Children and Youth Services Review*, *35*, 1830–1835. https://doi.org/10.1016/j.childyouth.2013.08.013

Dancy, J. (1996). *Moral reasons.* Clarendon Press.

Fluke, J., López, M. L., Benbenishty, R., Knorth, E. J., & Baumann, D. J. (2021). *Decision making and jugdment in child welfare and protection.* Oxford University Press.

Freeman, M. (2007). Why it remains important to take children's rights seriously. *International Journal of Children's Rights*, *15*, 5–23.

Hutchby, I., & Moran-Ellis, J. (Eds.). (1998). *Children and social competence: Arenas of action.* Routledge. https://doi.org/10.4324/9780203975657

James, A., & Prout, A. (1997). *Constructing and reconstructing childhood: Contemporary issues in the sociological study of childhood.* Routledge.

Kitchener, K. (1984). Intuition, critical evaluation and ethical principles. *The Counseling Psychologist, 12*(3), 43–55. https://doi.org/10.1177/0011000084123005

Ko, S. J., Ford, J. D., Kassam-Adams, N., Berkowitz, S. J., Wilson, C., Wong, M., Brymer, M. J., & Layne, C. M. (2008). Creating trauma-informed systems: Child welfare, education, first responders, health care, juvenile justice. *Professional Psychology: Research and Practice*, *39*(4), 396–404. https://doi.org/10.1037/0735-7028.39.4.396

Lippert-Rasmussen, K. (2017). The nature of applied philosophy. In K. Lippert-Rasmussen, K. Brownlee & D. Coady (Eds.), *A companion to applied philosophy* (pp. 1–17). John Wiley and Sons.

Løgstrup, K. E. (2020). *The ethical demand.* Oxford University Press.

Munro, E., Cartwright, N., Hardie, J., & Montuschi, E. (2017). Improving child safety: Deliberation, judgement and empirical research. CHESS working paper. Durham University. https://durham-repository.worktribe.com/output/1122926/improving-child-safety-deliberation-judgement-and-empirical-research

Munro, E. (2020). *Effective child protection.* Sage Publications.

Navy, S. (2020). Theory of human motivation – Abraham Maslow. In B. Akpan & T. J. Kennedy (Eds.), *Science education in theory and practice* (pp. 17–28.). Springer.

Nordby, H., Bennin C., & Buer B. A. (2021). *Etikk i barnevern* [Ethics in child welfare]. Gyldendal Akademisk.

Reamer, F. (2014, 1 July). Eye on ethics. *Social Work Today.* https://www.socialworktoday.com/news/eoe_111014.shtml

Scales, S., Potthast, A., & Oravecz, L. (2010). *The ethics of the family.* Cambridge Scholars Publishing.

Wall, J. (2010). *Ethics in light of childhood.* Georgetown University Press.

Wulff, H. R., Pedersen, S. A., & Rosenberg, R., (1990). *Philosophy of medicine.* Blackwell.

This book focuses on the significance of family in child welfare (CW) services from multidisciplinary perspectives. The authors are concerned with how families experience encounters with CW workers, how professional CW work with families is guided by rules and principles, and how social structures and ideologies influence CW work. Taken together, the chapters contribute to a comprehensive understanding of how CW workers should understand the importance of family for children.

The book is important for everyone who works with the welfare of children and their families, and for those who educate CW workers. Although the context for many of the discussions in the book is Norwegian CW work, the topics are general, recognisable and relevant to similar discussions in other countries. The book is intended for CW workers, policymakers, researchers, and teachers and students in social work and child welfare study programmes.

Child Welfare and the Significance of Family is edited by **Halvor Nordby** (professor at the Department of Social Work and Guidance, Inland Norway University of Applied Sciences), **Grethe Netland** (associate professor at the Department of Research, Inland Norway University of Applied Sciences) and **Astrid Halsa** (associate professor at the Department of Social Work and Guidance, Inland Norway University of Applied Sciences).