



Exploratory Workshop Scheme

Scientific Review Group for the Social
Sciences

ESF Exploratory Workshop on

Socio-Legal Models of Care Order Proceedings in Europe

University College Cork, Cork (Ireland), 19th – 22nd August 2014

Convened by:
**Kenneth Burns, Tarja Pösö
and Marit Skivenes**

SCIENTIFIC REPORT

1. Executive summary (approx. 2 pages)

The three-day seminar “Socio-Legal Models of Care Order Proceedings in Europe” was held at the University College Cork, in Cork (Ireland). The seminar started Tuesday 19th August and ended Friday 22nd of August 2014. Conveners of the seminar were Dr Kenneth Burns (University College Cork, Ireland), Professor Tarja Pösö (University of Tampere, Finland) and Professor Marit Skivenes (University of Bergen, Norway). Participation numbered 20 people from eight countries. The researcher from Spain could not come. Professor Lise Kjølørød (University of Oslo, Norway) was the ESF Rapporteur.

The facilities at the University College in Cork were excellent for the purpose of this seminar, and the program had a good balance between presentations and breaks so that participant had time to digest the content of the presentations as well as sufficient space for informal talk and interactions. The afternoon program gave room for additional informal interaction between the participants, and the general atmosphere was clearly very confident and accommodating for developing a platform for comparative research on the area of socio legal models in child protection. The participants were all knowledgeable researchers in this field of study, which led to stimulating debate and creative ideas.

The workshop addressed one of the most important, but least researched proceedings, where the State intervenes in the private family sphere to remove children at risk to a place of safety, adoption or other forms of out-of-home care. The scarcity of knowledge and research about court proceeding on care orders in child protection cases throughout Europe is surprising. A decision to remove a child from his/her parents is one of the most important decisions a Nation State can make. However these are interventions and decisions that are highly necessary because children’s welfare, childhood and future can be at stake. Despite this being one of the most important powers of the state, little or nothing is known about what happens behind the closed doors of *in camera* child protection proceedings. Few official or media case reports are available; few written judgments are made public; and, most importantly, there has been little European empirical research making it hard to build a picture of practices and trends. The result is an undesirable lack of transparency in the exercise of one of State’s most far-reaching powers, and a lack of an adequate knowledge base on which to base discussions about potential reform and improvements.

This workshop shed light on and provided new insight into how seven European countries formally and in practice proceed in child protection interventions. By this we have not only started building a platform for comparative research at the intersection of social work, law, criminology, politics, education and social policy, but also started filling a significant knowledge gap. The workshop has examined the efficacy of different legal and quasi-legal decision-making models across Europe, and explored the role of court-based decision-making in child protection proceedings, its effects, dynamics and meanings in these seven European countries.

The overall summary of the scientific results of the seminar is that we have established:

- An understanding of the different decision-making systems in the seven European countries;
- That there are a gaps in research that needs to be filled;
- That policies, legislation and practice varies between countries, but there are also similarities, and

- A platform is necessary for further research and collaborations on the themes of socio-legal decision-making proceedings concerning children in need of alternative care in Europe.

2. Scientific content of the event

The scientific programme was divided into three main parts. The first (introductory) part aimed to *map child care proceedings models* in those eight countries that were presented in the workshop. The country presentations (10 minutes) followed a scheme that was set by the organizers. The discussion highlighted the fundamental differences in the systems and their rationalities. In particular, the role and composition (e.g. judges, lay-people, expert members) of the court's decisions vary a lot as do the cooperation between social workers and the courts.

The second part of the main scientific programme was based on individual presentations (12) of *current research on the topic of socio-legal decision-making*. Karen Broadhurst's presentation (1) about repetitive care order proceedings with some birth mothers in the UK highlighted one unknown problem in the decision-making system and the challenges/opportunities of using administrative data in research of care order proceedings. The presentation by Aisling Parkers, Conor O'Mahony, Caroline Shore and Kenneth Burns (2) analysed care order proceeding reports in Ireland to explore the involvement of children and parents from the point of view of different practitioners in the decision-making process. One of the key messages was variation among the practitioners and different court systems, but little direct participation from children in the proceedings. Carol Coulter (3) continued the analysis of the Irish system by presenting her ethnographic work in the courts. She pointed out some considerable problems in the system (e.g. variation in the representation of children and parents, arguments, decisions). Joe Smeeton's presentation (4) focus on decision-making in cases of neglect in particular and demonstrated the diffuse knowledge base of 'neglect' in particular.

The Swedish decision-making of care orders rests to some extent on lay-men, which was the topic for Staffan Höjer's presentation (5). The survey results challenge, on the one hand, 'the rule of law', on the other, the professionalization care order decisions by providing a democratic non-professional forum for decisions. The arguments for best interest was analysed in the Norwegian court decisions by Marit Skivenes and Anne-Mette Magnussen (6) demonstrating that children's views were only occasionally referred to when making decisions of care orders. Gustav Svensson's (7) presentation focused on the Supreme Administrative courts in Sweden and, based on the textual analysis, expressed some concerns about the consistency of the decisions. The Finnish presentation by Elina Pekkarinen and Tarja Pösö (8) analysed the differences between the voluntary and involuntary care orders in the social work case files and ended up in stating that there are different 'shades' of voluntarism and involuntarism. The German family court proceedings was analysed by Monika Haug (9). Special attention was given to the specialization of the courts and their representatives. Judith Mason (10) analysed the impacts of the court-based decision-making system on social workers' practice based on the existing studies in the UK. Janice McGhee (11) presented the Scottish Children's Hearing System and analysed the current changes in particular. The interrelations and expectations of multi-professional decision-making in Swiss child protection was analysed Stefan Schnurr and Kay Biesel (12). Special attention was given to children's participation, which the present system treats in an inconsistent manner.

All in all, the second part of the scientific programme highlighted a) the differences in the care order proceedings within the countries and among the countries, b) the fragmentary nature of research in the area of socio-legal decision-making in the countries presented in the workshop and c) the lack of knowledge of cross-country systems and their social, historical and policy contexts. The conclusions of the workshop underlined the need to study the following themes in more depth:

- children's participation in care order proceedings
- discretion in care order decision-making (both social work and courts)
- voluntarism vs. coercion in care order decisions
- data and knowledge base for research of socio-legal decision-making

The third part of the scientific programme was built on the themes that the previous presentations and discussions mapped out and on the plans about the future research. There was a strongly shared understanding that those four themes need more research (and changes in practice and policy) and that this network is willing to continue working collaboratively on these themes.

3. Assessment of the results, contribution to the future direction of the field, outcome

a) Informal network

The network continues to exist for exchange of ideas, research and collaboration. E-mail is the main forum for exchange. The network aims to organise face-to-face meetings and is actively looking for funding to support future network meetings. The network has prepared a plan of conference presentations (e.g. European Social Work Research Conference in 2015, BASPCAN 2014, and the 7th World Congress on Family Law and Children's Rights) in which the network could organise symposiums and presentations.

b) Edited book with Oxford University Press

The participants of this network are working on an edited book called 'Removal of a Child from Home: A Cross-Country Analysis of Socio-Legal Decision-Making'. This book will present the decision-making models in different European countries and in the United States and will analyse the current trends and weak points of these countries' systems. The book is edited by Kenneth Burns, Tarja Pösö and Marit Skivenes. Oxford University Press has expressed its interest in publishing the book. The book will be submitted to Oxford University Press mid-2015.

c) Establishment of working sub-groups.

We have established 4 sub-groups that are working on various themes associated with the focus of the network. These groups are at an early stage of developing work plans. For example, the *voluntary care* sub-group will be submitting an abstract examining 4 countries' voluntary care systems to the 5th *European Conference for Social Work Research* (closing date October 2014) and will also be writing an article early 2015, with the *British Journal of Social Work*, *Child Abuse and Neglect*, *Child and Family Social Work* and *Child Abuse Review* as target journals.

d) Country research council proposals. All members of the group are reviewing funding streams with their national research councils to facilitate the group, or sub-groups in the network to meet. One example of an up-coming application is to the Irish Research Council – New Foundations Scheme (Strand 3: Enriching Knowledge Exchange) + the Norwegian Research Council.

e) Further publication plans

There are some preliminary plans for another edited book, focusing on research papers from the ESF network event in Cork, in which Policy Press has expressed an interest.

4. Final programme

Wednesday 20th August 2014

Welcome and Introductions

9.00-9.15	Welcome by Conveners	<i>Kenneth Burns, Marit Skivenes and Tarja Pösö</i>
9.15-9.30	Presentation of the European Science Foundation	<i>Lise Kjølsvold, ESF Rapporteur</i>
9.30-9.45	Participant introductions	<i>Kenneth Burns</i>
9.45-10.00	Setting the scene	<i>Marit Skivenes, Tarja Pösö and Kenneth Burns</i>

Session 1: Mapping European child care proceeding models – differences and commonalities

10.00-10.40	Mapping child care proceedings models: decision-making, legal structures and children's participation (10 mins. each)	1. Finland – Tarja Pösö 2. Ireland – Conor O'Mahony 3. Scotland – Janice McGhee
10.40-11.00	Coffee break	WGB_226
11.00-12.40	Mapping child care proceedings models: decision-making, legal structures and children's participation <i>One presentation from each country x 10 mins.</i>	4. Norway – Marit Skivenes 5. Switzerland – Stefan Schnurr 6. Sweden – Staffan Höjer 7. Germany – Monika Haug 8. England – Karen Broadhurst
12.40-1.05	Discussion: mapping differences and commonalities	<i>Facilitated by Anne-Mette Magnussen and Conor O'Mahony</i>
1.15-2.05	Lunch	Western Gateway Building

Session 2: Service user participation and representation in child care proceedings

2.15-2.45	Birth mothers caught in a cycle of repeat care proceedings: using national administrative data to understand recurrence in public law proceedings	<i>Karen Broadhurst</i>
2.45-3.15	Effective participation in Child Care Proceedings in Ireland: Professional views on child and parent representation and participation	<i>Aisling Parkes, Conor O'Mahony, Caroline Shore and Kenneth Burns</i>
3.15-3.45	Equality of arms? The representation of respondents in child care proceedings: lessons from the Child Care Law Reporting Project	<i>Carol Coulter</i>
3.45-4.15	Coffee and refreshments	WGB_226
4.15-4.45	Social workers' decision-making in cases of child neglect before the family court	<i>Joe Smeeton</i>
4.45-5.30	Discussion Identification of research questions / collaboration opportunities / publications	<i>Facilitated by Judith Masson and Aisling Parkes</i>
7.15	Dinner	No. 5 Fenn's Quay Restaurant, Shears Street, Cork, https://www.facebook.com/FennsQuay

Thursday 21st August 2014

Session 3: Comparative European Models 1

8.30-9.00	Free space for research planning meetings	WGB_226
9.00-9.30	Laymen in Swedish child welfare – the trade off between legitimacy and professionalization	<i>Staffan Höjer</i>
9.30-10.00	The arguments for best interests in care order cases through the Norwegian court system	<i>Anne-Mette Magnussen, Marit Skivenes and Line Marie Sørsdal</i>
10.00-10.30	Decision-making according to norms or discretion. The importance in Sweden of the judgements of the Supreme Administrative Court in cases of coercive care of children	<i>Gustav Svensson</i>
10.30-10.50	Coffee and refreshments	WGB_226

10.50-11.20	At the interface of court- and social work-based decision-making of care orders: some critical reflections on the Finnish model	<i>Tarja Pösö and Elina Pekkarinen</i>
11.20-11.50	Discussion Identification of research questions / collaboration opportunities / publications	<i>Facilitated by Karen Broadhurst and Gustav Svensson</i>

12.00 – 2.00	Lunch at the English Market - http://www.englishmarket.ie	
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Session 4: Comparative European Models 2

2.00-2.30	Removing children from their families for reasons of child protection in Germany: procedures, problems, practice.	<i>Monika Haug</i>
2.30-3.00	Understanding the use (and non use) of legal intervention to protect children	<i>Judith Masson</i>
3.00-3.30	The Scottish Children's Hearings: new horizons in balancing rights, autonomy and welfare?	<i>Janice McGhee</i>

3.30-3.55	Coffee and refreshments	WGB_226
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4.00-4.30	Interrelations and expectations of multi-profession authorities and social workers in Swiss child protection	<i>Stefan Schnurr and Kay Biesel</i>
4.30-5.30	Discussion Identification of research questions / collaboration opportunities / publications	<i>Facilitated by Staffan Höjer and Carol Coulter</i>

7.15	Dinner - http://jacquesrestaurant.ie	Jacques Restaurant, 23, Oliver Plunkett Street, Cork.
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Friday 22nd August 2014

Session 5: Future Planning

8.45-9.20	Free space for research planning meetings	WGB_226
9.20-10.00	Contributors to comparative child care proceedings edited "Bergen" proceedings book (chapter authors only)	<i>Facilitated by Kenneth Burns, Marit Skivenes and Tarja Pösö</i> <i>TBC</i>
10.00-11.00	Breakout discussions: journal publications, research funding opportunities and conference collaborations	<i>All</i>
11.00-11.20	Coffee and refreshments	WGB_226
11.20-12.00	Convening of a working group to lead future networking, collaboration and inter-institutional funding applications	<i>Facilitated by Stefan Schnurr and Marit Skivenes</i>
12.00-12.30	Closing comments	<i>Kenneth Burns, Marit Skivenes and Tarja Pösö</i>
12.30	Light lunch, end of workshop and departure	Western Gateway Building

5. Final list of participants (name and affiliation is sufficient; the detailed list should be updated on-line directly)

1	Dr Kenneth Burns	Lecturer in Social Work and Research Associate with the Institute of Social Science in the 21 st Century, University College Cork	Ireland
2	Dr Conor O'Mahony	Senior Lecturer in Law, and Research Associate with the Institute of Social Science in the 21 st Century, University College Cork	Ireland
3	Dr Aisling Parkes	Lecturer in Law, and Research Associate with the Institute of Social Science in the 21 st Century, University College Cork	Ireland
4	Ms Caroline Shore	Lecturer in Social Work, Master of Social Work Year Coordinator, University College Cork	Ireland
5	Dr Carol Coutler	Director, Child Care Law Reporting Project	Ireland
6	Dr Karen Broadhurst	Senior Lecturer in Social Work, Manchester University	United Kingdom [England]
7	Dr Judith Masson	Professor of Socio-Legal Studies, School of Law, Bristol University	United Kingdom [England]
8	Mr Joseph Smeeton	Principal Lecturer in Social Work, Nottingham Trent University	United Kingdom [England]
9	Ms. Janice McGhee	Senior Lecturer in Social Work, University of Edinburgh	United Kingdom [Scotland]
10	Dr. Tarja Pösö	Professor in Social Work, School of Social Sciences, University of Tampere	Finland
11	Dr. Elina Pekkarinen	Postdoctoral Researcher, Finnish Youth Research Network	Finland
12	Dr. Gustav Svensson	Senior Lecturer of Social Law, Göteborg University	Sweden
13	Dr. Staffan Höjer	Professor in Social Work, Göteborg University	Sweden
14	Dr. Marit Skivenes	Professor, Department of Administration and Organisation Theory, University of Bergen	Norway
15	Dr. Anne-Mette Magnussen	Associate Professor, Bergen University College	Norway

16	Ms Line Marie Sørsdal	PhD Student, Faculty of Social Sciences, the Department of Administration and Organization Theory	Norway
17	Ms Monika Haug	Research Associate, Kassel University	Germany
18	Dr. Stefan Schnurr	Professor and Head of the Institute for Studies in Children and Youth Services at the School of Social Work, University of Applied Sciences and Arts North western, Basel	Switzerland
19	Dr. Kay Biesel	Professor, Institute for Studies in Children and Youth Services, University of Applied Sciences and Arts Northwestern Switzerland	Switzerland
20	Professor Lise Kjølsvød, ESF Rapporteur	Department of Sociology and Human Geography University of Oslo P.O. Box 1096 Blindern 0317 Oslo Norway	Norway

6. Statistical information on participants (age bracket, countries of origin, M/F repartition, etc.) The statistics to be provided under section 6 can also include repartition by scientific specialty if relevant.

Countries represented

Norway, Finland, Switzerland, Sweden, England, Scotland, Ireland, Germany

M/F

7 male and 13 female delegates.

Age profile

Age 30-39 (5); Age 40-49 (4); age 50-59 (7); Age 60-69 (4)

Disciplines

Social work, law, sociology, criminology, social policy and political theory

Kenneth Burns, Tarja Pösö and Marit Skivenes
October 2014.