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Errors and Mistakes in Child Protection: International discourses, approaches and strategies

Edited by Kay Biesel, Judith Masson, Nigel Parton and Tarja Poso

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Academics and practitioners in child protection may feel they already read about errors and mistakes almost daily, but the title of this book should not add to their despair. It is not just a litany of what goes wrong; it is a collection on the development of policy in different jurisdictions in response to discoveries of things that went wrong. Through historical and contemporary analysis, each contributing author attempts to identify best practice and the strategies that may help reduce errors and mistakes, thereby providing an overview of similarities and differences between their countries. The chapters cover ten different European systems and the USA, with three additional chapters by the editors. Kay Biesel and Nigel Parton are professors in childhood studies in Switzerland and England respectively; Judith Masson is a professor of socio-legal studies in England; and Tarja Poso is a professor of social work in Finland. The authors are university and policy researchers; the book was inspired by an international workshop held in Switzerland in 2017. It is unusual in offering comparative analysis on child protection in western societies, and complementary reading to Burns *et al* on child welfare removals (2017).

A helpful distinction is drawn by the editors between 'errors' and 'mistakes'. They define the former as a deviation from standards or regulations, where obligations toward children and families have not been fulfilled. On the other hand, a mistake occurs when a misunderstanding or wrong belief has led to the wrong choice or decision being taken. We can see, therefore, the benefits of considering a range of strategies to help avoid both errors and mistakes. Outcomes for children, however, can be just as serious whether from procedural failures or failures of judgment, and so, both need to be addressed. The editors note, however that obligations to make best interest decisions for children in the context of promoting their wellbeing, protecting them from harm, balancing their rights and their parents' rights, supporting parents and strengthening families, are inevitably going to lead to some errors and mistakes. These need to be dealt with without scandal, blame or over regulation (p 270).

Four value perspectives underlying child law and policy in England and Wales were identified in the 1980s by Lorraine Fox Harding (1997): laissez faire; state paternalism; the defence of the birth family; and children's rights. Although there are few explicit references to children's rights in the book, the discussions are pervaded by recognition that services are adult-focused. This problem reflects the continuous dominance of the alternative policy perspectives of paternalism and defence of the birth family.. However, the editors suggest that a shift to a child-focused orientation, placing children's rights at the forefront, and giving them more opportunities to participate in decision making, has been evident in Europe over the past ten years. They refer to a 'rights and empowerment' response to errors and mistakes, one which relies less on the performance or support of practitioners and more on the rights of service users. Such an approach, however, still contains potential conflicts between children, mothers, fathers, and extended family.

Mistakes and errors across jurisdictions are summarised by the editors as, firstly, where practitioners either wrongly diagnose or fail to identify abuse, or try to apply incorrect solutions. Secondly, there are organisational errors where children who are in public care are not protected. Thirdly, there may be implementation errors through system failures. Another category is where practitioners act outside or against the law, although there is little mention by the authors of failure to protect motivated by unethical or malign intentions.

Each chapter begins with an outline of the current national child protection system and mentions the events that have shaped developments, moving on to an analysis of responses and view on the future.

The chapter on England by Judith Masson and Nigel Parton especially emphasises the way policy has been dominated by a series of high profile scandals, from the death of Maria Colwell in 1973, to that of Ellie Butler in 2013. Both these children were murdered at the age of seven after court orders returning them to dangerous parents. The most high profile scandal, well known internationally probably because of the way it was politicised (Jones 2014), was that of Peter Connelly ('Baby P') at the age of 17 months. In all these cases, violent and collusive adults were able to deceive practitioners across different agencies, even where the children were old enough to express views, as were extended family members whose concerns were minimised. In the Butler case, the parents had even

been able to subvert an extended forensic process, with a High Court judge making serious mistakes (Taylor and O'Carroll 2016).

In most of the other case studies, however, courts appear only peripherally. Caroline Shore and Fred Powell explain in their chapter on Ireland that discourse has been preoccupied by historical child abuse by the Catholic Church to the extent that systems have been slow to respond to the reality of continuing child protection concerns within families and communities. This is one chapter where recent discrimination concerns are featured, namely children in Roma families.

In the Netherlands, Kirti Zeijlmans and colleagues trace the development of a more systemic approach to analysing the context of errors and mistakes in recent years, including a prosecution (and acquittal) of an individual employee for failure to protect in one child fatality case. However, the introduction of two preventative programmes, Family Coach and a Reference Index appear to have had little impact. There are indications that improvements in caseloads and guidance for 'family guardians' who are assigned under court supervision orders to allocate support services to families and monitor protection plans, appear to be more successful.

Finland is an interesting case study, where authors Essi Julin and Tarja Poso describe a high level of trust amongst the population in authority and public agencies, with self regulation informed by providers and service users. There are also groups vocally critical of some agencies and individuals, with social media and advocacy groups drawn from 'experts by experience' but these seem to be engaged in some constructive dialogue.

Child protection in Norway has come under more scrutiny at a European level than other countries, whether through the volume of cases heard by the European Court of Human Rights or through prolific published output from researchers associated with Marit Skivenes, here co writing a chapter with Oyvind Tefre. This chapter includes analysis of child protection errors where there were failures to identify, consider, acknowledge or act on children's interests and viewpoints. Although there are explicit protocols and rules about engaging directly with children in proactive processes, this chapter reveals high levels of non-compliance at various stages of casework. The Parliamentary Ombudsman and the Children's Ombudsman have both reported on dissatisfaction expressed by children who say they were not believed or taken seriously, as protective agencies tended to focus on helping them at school rather than

investigating their home circumstances. The authors conclude with three main types of error that are repeated over the years: a lack of involvement or opportunities for children to give their views; failures to follow procedures and record casework; and poor management of child welfare agencies. However, unlike most of the other countries featured in the book, criticism has been rather abstract, with no high profile complaints or scandals, so that reform has not been seen as a priority.

Sweden is interesting, with a mandatory reporting system and a relatively high rate of children in care but, unusually, this is mainly through boards of lay citizens (not courts) based on social work reports. The small proportion of the care arrangements that are involuntary are reviewed biannually by the board, with a view to reunification. There has, nevertheless, been a substantial inquiry into abuse in institutions and foster homes occurring between the 1920s and the 2000s. This chapter's authors, Inger Kjellberg and Staffan Hojer, relate concerns about lack of professionalism amongst social workers and scant evaluation of the effects of inquiries and reforms.

A history of what appears to be exceptionally coercive and discriminatory practice in Switzerland, of removing children from poor families to work for their living on farms, led to reparations and a comprehensive review during 2014-2018. However, the authors of this chapter, Brigitte Muller, Kay Biesel and Clarissa Schar, comment that clear breaches of human rights and incompatibility with UNCRC principles were not directly influential on subsequent structural reforms. Child protection was reorganised and professionalised and attracted criticism as being over-bureaucratised, especially by the media. The authors say that scepticism about state intervention is rooted in Swiss political tradition and a conservative view of family privacy. More positive developments in promoting children's rights are given in a recent paper by a project team of which Muller and Biesel are members. This considers the subjective experiences of individuals in the child protection system and aims to investigate how children and parents understand, experience and respond to what happens to them during proceedings. They also aim to raise professional awareness of ways to encourage and support the full participation of children and parents (Schoch et al 2020).

Similarly to most of the other countries, developments in the German child protection system have been driven more by media scandal than critical awareness. However there is a wide range of responses, from increased regulation to expanding resources. The latter include recruiting

more social workers, funding research on improving quality, introducing new assessment instruments, investing in information materials and training, and enhancing knowledge transfer through case reviews. These has been broadly welcomed by practitioners although there is insufficient data to draw on as to their effectiveness, according to the authors of this chapter, Heinz Kindler, Christine Gerber and Susanna Lillig.

The chapter on France by Helen Join-Lambert and Gilles Seraphin is dominated by the Outreau and Angers paedophile trials and subsequent research that shows ongoing dysfunctional practice in taking children's testimonies. There is also reference to the practice of autistic children being removed from mothers who are deemed to be causing their children's difficulties. However, the authors conclude that more attention is now being paid to listening to children and improving responses.

Teresa Bertotti describes errors and mistakes in child protection in Italy as an 'unspoken issue' because she is unable to find any awareness that they exist, beyond a theoretical acknowledgement that they might. Nevertheless, an observatory has been established to draw up a three year plan in response to the UN Committee on the Rights of the Child and a National Ombudsman for Children to monitor children's rights and produce guidelines on major shortcomings. Evidence from children may therefore be forthcoming that reflects her belief that front line practitioners do have concerns about risk that they currently feel unable to vocalise.

Unsurprisingly, the chapter on the USA by Jill Duerr Berrick and Jaclyn Chambers takes a slightly different perspective from the earlier chapters, acknowledging the highly residual nature of its welfare state. There are so few preventive services that when child abuse or neglect is discovered, it is usually very serious. On the other hand, the USA has developed structured decision making models that include predictive risk modelling (PRM) that combine data mining with analytical techniques to predict risk, using multiple data points. This is controversial because of questions about consent and privacy, who runs the businesses, and whether existing structural inequalities are built in to the algorithms.

The editors list the main strategies to handle errors and mistakes as: legal reform, mandatory reporting, serious case reviews and investigations; inspection regimes; public inquiries; and establishing an ombudsman services or improving complaints mechanisms. An example of the latter (although not covered in this book) is the establishment of the post of Children's Commissioner for Wales following public inquiries

into abuse in North Wales children's homes. It would have been interesting to learn more about such mechanisms for children to make their voices heard, especially where peer support groups are increasingly encouraged.

As pointed out by Berrick and Chambers (p248), child protection agencies have to try to apply all the principles of honouring concepts of safety, family, permanence, culture, kinship, home and client voice. These will inevitably come into conflict at times, but the rights and empowerment response might hold out hope for a coherent approach. The international collection provided by this book is an important contribution to such an approach.

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