

Norsk-russisk konferanse om Barn og straff

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Children & Punishment: The perspective of the Norwegian Child Care Service

Introduction

I would first of all like to thank you all for taking part in today's conference. Children and punishment is a challenging and complex topic to deal with. As formulated in the UN Study on Violence¹, "[...] the discourse about children and criminality goes to the heart of strongly held views about child development, upbringing methods, the purpose of justice systems, political pressures, and the human potential for transformation after a 'bad start' in life."

In Norway, the child welfare services play a significant role in relation to several of these issues. One of two main tasks of

¹ Paulo Sérgio Pinheiro, 2006

the child welfare services is to protect and support children at risk, many of whom have indeed had a very bad start in life.

The Norwegian child welfare services – role and responsibilities

An important goal for the Norwegian government is to provide equal opportunities for all children in Norway. As stated in a recently published article about the Norwegian child welfare services: “Policy development during the last 30 years can be divided into three phases:

- protection,
- prevention, and
- promotion of equal opportunities and access to welfare”².

The article argues that these general trends reflect some of the basic thinking in the Norwegian child welfare system, and also in other social and health-related services.

However, longitudinal research³ has shown that children who receive assistance from the child welfare services are more likely to “use social and disability benefits, engage in

² Skivenes 2011 (page 159), “Norway: Toward a Child-Centric Perspective”, in *Child Protection Systems*. Oxford University Press

³³ Clausen 2004, Kristofersen 2005

substance abuse and criminal activities, and suffer violent deaths”.⁴⁴ These depressing findings underline the importance of giving these children the highest priority so that they can reach their potential.

Children in conflict with the law

Children in conflict with the law are often marked by a troubled past. In certain ways these are among the most vulnerable children in our society.

A considerable number of children in conflict with the law have at some point had a brief or prolonged contact with the child welfare services. Significant numbers of these children are troubled by behavioural or psychological problems, difficulties controlling their aggression, and/or drug abuse. They may also have been moved from one child welfare institution to another in order to meet their needs in terms of care and treatment.

This indicates that the child welfare services have often played a crucial role in the lives of a great deal of children in conflict

⁴⁴ Skivenes 2011 (page 156), "Norway: Toward a Child-Centric Perspective", in *Child Protection Systems*. Oxford University Press

with the law. Some of these children are also under the care of the child welfare services at the time of committing crime.

The age of criminal responsibility in Norway is 15 years. This implies that in cases of extreme criminal activity, children may be sentenced to prison from the age of 15. If these children are under the age of 18 at the time of being released from prison, the child welfare services may also be given a crucial role in helping them make a future for themselves outside of prison.

The Norwegian Child Welfare Services

The role and responsibilities of the Norwegian child welfare (care) services are regulated by the Child Welfare Act of 1992. The act describes the main purpose of the child welfare services as twofold:

1. To ensure that children and young persons who live in conditions that may be detrimental to their health and development receive the necessary assistance and care at the right time.

2. To help ensure that children and young persons grow up in a secure environment.

Norway ratified the Convention on the Rights of the Child in 1991. Article 3 of the convention emphasises that the best interests of the child shall be a primary consideration in all actions concerning children, “[...] whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies [...]”.

Consequently, the child welfare services are responsible for implementing measures based on the best interests of the child.

In the following I will give an overall explanation of the outline and functioning of the Norwegian child welfare services.

There are three levels of administration of the child welfare system:

- *National state level:* Norwegian Ministry of Children, Equality and Social Inclusion

- *Regional level:* The Norwegian Directorate for Children, Youth and Family Affairs, which is divided into five Regional Offices.
- *Municipal level:* 430 municipalities serve their inhabitants. The average number of inhabitants is 5000.

The child welfare services at the municipal level conduct investigations to detect whether assistance should be given to a child and/or its family. These investigations are based on reports from people who are concerned about a named child's wellbeing.

The child welfare services shall at the earliest opportunity, and within one week at the latest, examine each report and assess whether these should be followed up by an investigation. An investigation must not take more than three months (with the exception of special cases where the investigation could take up to six months).

The child welfare services shall collaborate with other sectors and levels of the public administration to develop measures consistent with the best interests of the child.

The majority of services offered to children and their families are assistance measures offered either in-home or out-of-home. These could be:

- A personal support contact
- A place for the child at a day care institution (for instance kindergarten), or supplementary care at home
- An offer for the young person to attend training or get employment
- Assistance for the child in the form of financial support
- Measures which may encourage the child to take part in leisure activities
- Placing the home under supervision by appointing a supervisor for the child
- Offering the family a place in a centre for parents and children
- Offering the child a place in a foster family or an institution (voluntary out-of-home placement)
- Offering families methods developed to assist children with serious behavioural problems

Interventions by the child welfare services can either be voluntary or compulsory. In severe cases, care orders may be made. This should be done if there are serious deficiencies in the everyday care received by the child. For example if the child is being mistreated or abused, or if for other reasons it is highly probably that the child's health or development may be harmed because the parents are unable to take adequate responsibility for the child.

In such cases children may be placed in a foster family or in a child welfare institution.

A care order shall be implemented as soon as possible.

However, in these cases the child welfare services are not allowed to make decisions on its own. Decisions of placement of children outside of their home can only be decided by the County Social Welfare Board – the county board for child welfare and social affairs.

The county social welfare board decides cases brought by municipalities. The board shall ensure that legal counsel is appointed for the private parties, and may also appoint a

special spokesperson for the child in cases that are to be dealt with by the board.

The decisions of the board may be brought before the district court by the private party or by the municipality.

Care versus punishment

How does the role of the child welfare services as caregivers relate to the topic of this conference – children and punishment?

As opposed to the Ministry of Justice and the Police, punishment is not within our ministry's legal mandate. Moreover, it is not considered the task of the child welfare services to protect society against delinquent children. In the case of child welfare institutions, the use of coercion for punishment or for educational purposes is not permitted.

In my understanding there is an overall agreement in Norwegian society that the child welfare system's role as caregiver is not consistent with that of issuing punishment. This was also the conclusion of the independent commission that

looked into the issue of children and punishment (NOU 2008: 15 Barn og straff). However, there is also an overall agreement to the need for giving the child welfare services a clearer and more binding role when it comes to children in conflict with the law.

According to existing Norwegian regulations, child offenders may on specific conditions serve their sentence in a child welfare institution. This is also the case for children in custody. It is crucial that these placements do not come into conflict with the regulations of the use of coercion in child welfare institutions.

The two Norwegian ministries, the Ministry of Justice and the Police and the Ministry of Children, Equality and Social Inclusion, have cooperated closely to find ways of strengthening the dialogue and collaboration between the correctional and the child welfare services.

The Parliament will in due course look into and decide on propositions that will demand a greater commitment on the

part of the child welfare services to children in conflict with the law. Among these propositions are:

- Making it obligatory for the child welfare services to attend custody hearings when the person in question is under the age of 18
- Involving the child welfare services in a new form of punishment (“youth punishment”) that takes place outside of prison
- Establishing ambulant interagency teams related to the juvenile units that are being established. The teams should have expertise within child welfare, health and education.

Conclusion

The child welfare services are playing an important part in terms of offering protection, prevention, and the promotion of equal opportunities for children at risk and their families. Our hope and aim is that the child welfare services in the near future will be playing an even more important role for children in conflict with the law.

Yet the child welfare services' main function will remain to make sure that children at risk receive the necessary care and assistance at the right time, and grow up in a secure environment.

Thank you for your attention.