

A Child's Right to Family Life after a Care Order Is Issued: An Analysis of the Child Welfare Tribunals' Weighting and Interpretation

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Abstract

This article summarizes a thesis examining how the child's right to family life is safeguarded following a care order. The thesis consists of four studies: three analyzing the Child Welfare Tribunal's decisions and one reviewing existing research on how children's views are weighted in legal proceedings. The study explores how Norwegian practice aligns with human rights obligations, focusing on how the tribunal justifies restrictions on child-parent contact. Additionally, the study investigates when and how a child's perspective is considered in decision-making processes. The findings suggest that contact regulations are often framed through a needs-based approach emphasizing placement stability rather than individualized assessments of child-parent relationships. Furthermore, while formally acknowledged, children's perspectives appear to be selectively weighted in tribunal decisions. The discussion highlights the importance of increasing transparency in integrating competing perspectives into decision-making, strengthening professional discretion, and ensuring that child welfare practices align more closely with legal and human rights standards.

Introduction

This article is a summary of the thesis 'A child's right to family life after a care order is issued. An analysis of the Child Welfare Tribunals' weighting and interpretation' by Gerds-Andresen (2023). The article-based thesis explores how the child's right to family life is safeguarded by the Child Welfare Tribunal (tribunal) through the care orders. In Norway, care orders are first to be issued by the tribunal. The Tribunal is a 'court-like administrative body' that follows the principles of the Norwegian court system (Magnussen & Skivenes, 2015). Societies around the world have long recognized that parents can choose to give up the care of their children, and in such cases, the children are usually raised by other family members. This has often been done without involving the public support system. Such situations arise when the parents are unable to fulfill their responsibilities due to reasons such as poverty, health issues, or professional obligations (Woodhouse, 2009). However, recognition may change when the state intervenes in such situations, as it limits the parents' rights

and freedom in favor of the child's interests and needs. This raises questions about such interventions' moral, political, and legal basis. In Norway, there are approximately 10,000 children in public care at any given time. However, Norway's approach to safeguarding children's right to family life after a care order is issued has been the subject of criticism and public debate both nationally and internationally in recent years. Since 2019, this issue has also been the subject of several European Court of Human Rights (ECtHR) judgments against Norway¹. One of the main issues revolves around the importance of maintaining contact between children and parents after a care order is issued, facilitating mutual enjoyment. Another issue is how the child's interest is interpreted when living in public care. According to Alvik (2021), there is limited knowledge on how to facilitate the right to family life in the child's best interest when a child is in public care. Based on the tribunals' weighting and written interpretations within care orders, this study examines to what extent current Norwegian practice aligns with human rights obligations, with a particular focus on how tribunals justify the regulation of visitation rights, restriction of telephone contact and use of digital communication platforms when a care order is issued. An important element of the child's right to family life is the child's own opinion. Although there is a growing body of research on child participation in general, there is still little knowledge on when and how a child's view is weighted in law proceedings (McEwan-Strand & Skivenes, 2020). Building on this, the study also examines when and how a child's view is weighted in decision-making processes in court proceedings.

The right to family life when placed in public care

As of November 2023, ECtHR has found that Norway violated Article 8 of the European Convention on Human Rights (ECHR) in 25 cases². All the cases involved families where children were placed in public care, and contact between parents and children was strongly restricted. In all these cases, Norway was found to have violated the parents and children's right to family life due to the restrictions placed on contact between the child and his or her parents after the care order had been issued. The right to family life of both the child and parents is protected under ECHR Article 8, which is incorporated into Norwegian law. In addition, the Convention on the Rights of the Child (CRC) has also been incorporated into Norwegian law, and it contains several provisions that require states to respect and safeguard the relationship between children and their parents. These provisions include Articles 3(2), 8(1), 9, 10, 14(2), 16, 18, 19, 27 and 40(2). The European Court of Human Rights (ECtHR) has emphasized in various cases that when a child is placed in public care, it is essential to maintain a child's relationship with their family unless the fa-

1 Case no.: 37283/13, 39710/15, 60371/15, 14652/16, 15379/16, 64639/16, 64808/16, 39769/17, 63307/17, 64789/17, 459/18, 9167/18, 45889/18, 48372/18, 49452/18, 57678/18, 5947/19, 15784/19, 38097/19, 38105/19, 39717/19, 45985/19, 58880/19.

2 Case no.: 17383/90, 37283/13, 39710/15, 60371/15, 2822/16, 14652/16, 15379/16, 64639/16, 64808/16, 39769/17, 63307/17, 64789/17, 459/18, 9167/18, 45889/18, 48372/18, 49452/18, 57678/18, 5947/19, 15784/19, 38097/19, 38105/19, 39717/19, 45985/19, 58880/19.

mily has proven particularly unfit, as severing those ties would cut the child off from their roots. Therefore, family ties may only be severed in 'very exceptional circumstances' (e.g., *Strand-Lobben v. Norway*, 2019). According to ECtHR, everything must be done to preserve personal relations, and when appropriate, efforts should also be made to 'rebuild' the family. The parent-child relationship is supplemented by CRC Article 9(3), which states that a child separated from one or both parents has the right 'to maintain personal relations and direct contact with both parents on a regular basis.' Contact may only be restricted if it is 'contrary to the child's best interest' (*Hernehult v. Norway*, 2020). In General Comment No. 14 (2013), the Committee on the Rights of the Child (CtRC) outlines various elements that must be considered when assessing the best interests of a child. These elements include the 'child's views,' 'identity,' 'preservation of the family environment and maintaining relations,' 'care, protection, and safety of the child,' 'situation of vulnerability,' 'health,' and 'education.' CtRC stresses the importance of considering that a child's capacities will evolve. As such, decision-makers must evaluate measures that can be revised or adjusted accordingly instead of making definitive and irreversible decisions. To achieve this, CtRC argues that the child's current physical, emotional, educational, and other needs should be assessed, and possible development scenarios should be considered in the short and long term. In doing so, they must ensure continuity and stability of the child's current and future situation (CtRC, 2013).

The ECHR and CRC are incorporated into Norwegian law, creating a legal framework for managing a child's rights when living in public care. However, neither the ECHR, CRC, nor the Norwegian Child Welfare Act provide explicit instructions on managing this right. This decision lies within the decision-maker's discretion, initially the Norwegian tribunal.

Use of professional discretion as a form of reasoning

Different theoretical perspectives exist on understanding what influences and is included in decisions and decision-making processes. However, only a few decision-making models have been explicitly developed and linked to child welfare professional decision-making processes, which help to visualize conditions that are part of the tribunal's use of discretion when a care order is issued. During the last decades, two complementary decision-making models have been highlighted: The Decision Making Ecology (DME; Baumann et al., 2014; Baumann et al., 2011) and Judgment and Decision Processes in Context (JUDPiC; Benbenishty et al., 2015).

DME and JUDPiC have many features in common, including case conditions, organizational conditions, external factors such as laws and political guidelines, and decision-maker conditions, such as knowledge, attitudes, values, experience, or other personal conditions. While both models are concerned with the interaction between these factors and how they combine to lead to a decision, the DME model (Baumann et al., 2014) also considers how a decision influences future development processes and interactions. This means that

the decision outcome impacts societal structures and legitimization. Regardless of the decision, it will directly or indirectly influence the development process, such as how the child welfare service (CWS) follows up and relates to the decision's meaning and framework. Conversely, JUDPiC (Benbenishty et al., 2015) tends to interpret the decision within the framework of resource access and solution alternatives, hence 'in context.' Both models are based on an ecological decision-making model, which assumes that humans have limited rationality in their decision-making processes, where the decisions are based on the decision-makers' use of professional discretion as a form of reasoning.

So far, professional discretion as a form of reasoning in the committee's decision-making processes has received limited attention in the academic literature. There is also no comprehensive theory on professional discretion as a form of reasoning or argumentation theory for professional discretion (Grimen, 2009). Even though there are no specific rules or procedures for exercising professional discretion, discretion as a form of reasoning is bound in different ways. It is shaped by specific rules of conduct, general norms of rationality, and formative expectations (Molander, 2016). Exercising professional discretion as a form of reasoning entails comprehending the diverse nuances of its application in practice, where cognitive activity and the extent of its application are intricately intertwined. The epistemic and structural aspects of discretion are intertwined, relying on an expectation that decision-makers demonstrate judgment and make decisions that can be justified with what Grimen and Molander (2008:182) refer to as generally acceptable reasons. While entering a reasoning process to assess the relevance of knowledge in a given situation, known as an epistemic dimension (Grimen & Molander, 2008), there are established frameworks or external limits on what is possible, such as through legislation (Dworkin, 1978). The latitude for the exercise of discretion will, in this way, to a greater or lesser extent, be governed by various external constraints and the authority that has established these limitations, or what Dworkin (1978) refers to as standards. Various factors will influence the latitude, as illustrated through the DME model (Baumann et al., 2014).

To exercise discretion is what Zacka (2017) refers to as a moral actor with the responsibility to make sensible judgments. Zacka's perspectives on the exercise of discretion are primarily linked to theories of street-level bureaucracy, where he may be building on a theory Lipsky (1980) developed in the 1970s, later serving as the foundation for several analyses of discretion within public administration. While the tribunal is an administrative body, it holds an organizational role and functions somewhat different from what Lipsky (1980) refers to in his descriptions of street-level bureaucrats. Nevertheless, some theoretical points become relevant when the tribunal uses professional discretion as a form of reasoning in its decision-making processes. Focusing on the dilemmas that arise when general laws and rules are implemented in practice and applied to individual cases, attention is directed toward the epistemic aspect of professional discretionary reasoning. Zacka (2017) emphasizes the moral aspects of discretionary exercise, highlighting that decision-makers,

over time and with experience, may become morally predisposed to standardize the arguments within professional discretionary reasoning. Moral disposition is a tendency to adopt a specific position in assessing discretion-based issues, influencing the outcome and interpretation of the case.

Method

This study builds upon a doctoral dissertation of four sub-studies, each employing distinct methodological approaches. Three of the studies (Gerds-Andresen, 2020; Gerds-Andresen, 2021a; Gerds-Andersen, in review) are based on qualitative document analysis of tribunal decisions obtained from Lovdata Pro, an online legal database. The dataset comprises decisions from all 12 Norwegian County Social Welfare Boards from July 1, 2018, to December 31, 2019. The fourth study is a scoping review, systematically mapping existing research on how children's views are considered in legal proceedings, based on a structured literature search conducted in July 2020 (Gerds-Andresen, 2021b).

Data Collection and Sampling Strategy

The tribunal decisions analyzed in Studies I, II, and III (Gerds-Andresen, 2020; Gerds-Andresen, 2021a; Gerds-Andersen, in review) were accessed through Lovdata Pro, which publishes anonymized decisions that are available only to authorized users. The selection of decisions follows Lovdata's general principle that approximately every fifth case from each tribunal is included in the database. However, an analysis of annual reports from the tribunals for 2018 and 2019 indicated that the inclusion rate was somewhat lower, with 16% of all principal cases in 2018 and 15% in 2019. The dataset encompasses tribunal decisions covering various aspects of child welfare interventions, with each study focusing on different aspects of decision-making. Study I (Gerds-Andresen, 2020) included all first-instance care order decisions (N=94), while Study II (Gerds-Andresen, 2021a) focused on care orders that also determined visitation arrangements (N=91). Study III (Gerds-Andersen, in review) narrowed the selection to decisions addressing telephone and digital communication restrictions and placements at confidential addresses (N=16).

The scoping review in Study IV (Gerds-Andresen, 2021b) followed the methodological framework outlined by Peters et al. (2018), involving a systematic search across 14 databases: Academic Search, Campbell, CINAHL, EBSCOhost, Epistemonikos, Idunn, PubMed, ProQuest, Sage, Social Care Online, SpringerLink, SveMed, Taylor & Francis, and Wiley. The search strategy adhered to established scoping review protocols, employing predefined keywords and Boolean search operators to retrieve relevant literature comprehensively. A grey literature search was also conducted to capture ongoing and unpublished research. The search query used was: (Child OR youth OR adolescent OR young) AND (Decision-making OR 'Decision making' OR Participat* OR 'child's view') AND (weight*) AND (Court OR

'dependency hearing' OR 'County Social Welfare Board' OR Board OR 'supreme court' OR 'court of appeal' OR 'district court' OR 'law proceeding' OR 'child protection proceedings'). Studies were included if they (1) were empirical, (2) focused on children aged 0–18 involved in legal proceedings, and (3) addressed the weighting of children's perspectives in judicial decision-making. Studies were retained even if the weighting of children's perspectives was not the primary objective, provided it was discussed within the article. The search initially identified 765 potentially relevant publications, which were screened based on title and abstract. Following this, 26 full-text studies were reviewed, leading to a final selection of 11 studies for analysis. Data extraction was conducted using a structured matrix, capturing study characteristics, methodological details, and key findings. Thematic analysis was then applied to synthesize patterns across the included studies.

Data Processing and Analysis

All tribunal decisions were systematically analyzed as textual data. These documents contain first-hand and second-hand information: first-hand information includes the tribunal's reasoning and conclusions, whereas second-hand information reflects the tribunal's summary of case background based on evidence presented during hearings or submitted documentation in cases handled through a simplified written process. The written text in tribunal decisions represents the tribunal chair's interpretation and weighting of case information.

Studies I and II (Gerdtts-Andresen, 2020; Gerdtts-Andresen, 2021a) applied qualitative content analysis to examine patterns in how tribunals justify care orders and visitation regulations. Inspired by Berelson (1952) and Krippendorff (2012), the analysis employed manifest and latent coding techniques to identify explicit reasoning structures and underlying themes. The coding framework was theoretically grounded and systematically applied to the dataset. In Study I, three analytical categories were developed: (1) grounds for the care order, (2) expected duration of placement, and (3) contact regulations concerning placement expectations. Study II expanded on this by differentiating cases where the child had remained at home before the care order, those placed in emergency care, and those voluntarily placed before the tribunal decision.

Study III (Gerdtts-Andersen, in review) adopted a thematic analysis inspired by Braun and Clarke (2021) to identify key themes in the tribunal's communication regulation between children and their parents. This included an iterative coding process to ensure thematic consistency, leading to four overarching themes: (1) reciprocal contact restrictions, (2) court-imposed parental restrictions, (3) the child's involvement in decision-making, and (4) the relationship between confidential address status and communication restrictions.

For the scoping review in Study IV (Gerdtts-Andersen, 2021b), a structured data extraction matrix was developed to categorize the included studies based on variables such as study

population, research objectives, methodology, and findings. Thematic analysis was used to identify patterns across the included studies, resulting in three key themes: (1) younger children's participation in legal processes, (2) the weighting of children's views in family law proceedings, and (3) the role of children's perspectives in child protection decision-making.

Ethical Considerations

This study adhered to the ethical guidelines outlined by the Norwegian National Research Ethics Committees (NESH). The tribunal decisions analyzed in Studies I–III (Gerds-Andresen, 2020; Gerds-Andresen, 2021a; Gerds-Andersen, in review) were anonymized and accessed through Lovdata Pro, which provides restricted access to authorized users. No additional ethical approvals were required to use these legal documents in research. The scoping review in Study IV (Gerds-Andresen, 2021b) was conducted following established guidelines for systematic reviews, ensuring transparency and reproducibility in data collection and analysis.

Result

This study examines how the tribunal safeguards children's right to family life following a care order, focusing on justifications for child-parental contact regulation, telephone and digital communication, and the weighting of children's perspectives in legal decision-making. By synthesizing findings across four studies (Gerds-Andresen, 2020; 2021a; 2021b; in review), three overarching themes emerged: (1) Arbitrariness in contact regulation, (2) Justifications rooted in the needs-based approach, and (3) Limited transparency in the weighting of children's views.

Arbitrariness in contact regulation

Findings across Study I (Gerds-Andresen, 2021a), Study II (Gerds-Andresen, 2020), and Study III (Gerds-Andresen, in review) highlight that decisions regarding visitation rights, supervision requirements, and telephone or digital communication were often made without a structured or individualized assessment of the child's circumstances. While each study examined different aspects of contact regulation, they all identified a lack of transparent and systematic justifications in the tribunal's reasoning.

A striking similarity across these studies is how long-term placement status was used as a dominant justification for restricting contact (Gerds-Andresen, 2021a; 2020). In 94% of care orders analyzed in Study I, placements were categorized as long-term, and this classification was frequently cited as the primary reason for limiting visitation. However, no identifiable correlation was found between visitation restrictions and the child's age, developmental stage, special needs, parental capabilities, or prior visitation experiences. The extent of visitation varied considerably, from denied contact to weekly visits, yet the tribunal did

not provide a systematic rationale for these differences (Gerdtts-Andresen, 2021a). Study II further reinforced this pattern, showing that 91% of reviewed cases justified visitation restrictions based on the assumption that the child would remain in care long-term (Gerdtts-Andresen, 2020). Importantly, this justification was applied even in cases without documented evidence that continued parental contact would be harmful. Even when children had well-functioning contact arrangements with their biological parents before the care order, these prior experiences were not systematically considered when determining visitation after placement. The tribunal's reasoning reflected a structural assumption that long-term placement should involve a shift in primary attachment figures independent of the child's existing relationships (Gerdtts-Andresen, 2020). Similar arbitrariness was observed in the regulation of telephone and digital communication. Study III found that in 10% of cases, restrictions were placed on digital contact, affecting children aged 3 to 14 years. However, no clear rationale was provided for why some children were permitted digital contact while others were not (Gerdtts-Andresen, in review). Additionally, supervised visitation was required in 62% of cases, but Study I found no systematic correlation between supervision requirements and any identifiable risk factors (Gerdtts-Andresen, 2021a).

Justifications Rooted in the Needs-Based Approach

The tribunal's justifications for restricting visitation and digital communication were primarily framed within the needs-based approach, emphasizing stability and integration into the placement over maintaining biological relationships. Across the studies, contact restrictions were rarely tied to individualized assessments of risks or benefits. Instead, decisions reflected a structural logic prioritizing long-term caregiving continuity over maintaining biological ties (Gerdtts-Andresen, 2020; 2021a; in review).

A central justification for visitation restrictions was the concern that frequent contact with biological parents could interfere with the child's attachment to new caregivers. In 91% of reviewed cases in Study II, the tribunal argued that limiting visitation was necessary to prevent disruptions in placement stability and ensure a secure caregiving environment (Gerdtts-Andresen, 2020). Even when prior visitation arrangements had been positive, restrictions were justified based on concerns that continued contact might prevent the child from forming strong bonds with foster parents. The tribunal consistently framed visitation as ensuring 'knowledge of biological origins' rather than maintaining a meaningful emotional connection, reinforcing that long-term stability required a shift in relational ties (Gerdtts-Andresen, 2020). This needs-based logic was similarly applied to telephone and digital communication restrictions. Study III found that digital contact was often restricted with the argument that continued interaction with biological parents could destabilize the child's integration into the new placement, even in cases where there was no documented evidence of harm (Gerdtts-Andresen, in review). The tribunal's approach to digital contact mirrored its reasoning for visitation restrictions, where assumed risks were emphasized over evidence of prior contact functioning well.

Another justification frequently referenced in tribunal decisions was foster parents' interpretations of the child's reactions to biological contact. In multiple cases, foster parents' observations of 'negative reactions' following biological contact were used as justification for limiting communication (Gerds-Andresen, in review). However, no independent professional evaluations were systematically conducted to assess these reports, raising concerns about whether decisions were based on subjective interpretations rather than structured assessments (Gerds-Andresen, in review; 2021b).

Limited Transparency in the Weighting of Children's Views

Although the tribunal formally acknowledges children's right to be heard, findings suggest the extent to which children's perspectives influenced decision-making remained unclear (Gerds-Andresen, 2021b; 2020; in review). Across studies, children's views were documented but not systematically weighted, raising concerns about whether their participation rights were meaningfully upheld.

The scoping review in Study IV found that legal frameworks often lack structured criteria for incorporating children's views into decision-making (Gerds-Andresen, 2021b). This was similarly reflected in Study II, where children's perspectives on visitation were occasionally referenced but did not appear to influence the tribunal's final rulings (Gerds-Andresen, 2020). Even when children expressed positive experiences with biological contact, these accounts were often disregarded in favor of arguments related to placement stability. Rather than recognizing the child's experiences as a relevant factor, decisions were primarily justified by the need to protect the child's adaptation to new caregivers (Gerds-Andresen, 2020). Similar patterns were observed in Study III, where the tribunal's justifications rarely mentioned children's views on telephone and digital contact. Instead, foster parents' observations of the child's emotional state following communication were given greater weight than the child's preferences (Gerds-Andresen, in review).

A recurring issue across the studies was how the tribunal handled situations where a child's perspective contradicted the ruling. Findings from Study IV (Gerds-Andresen, 2021b) indicate that when a child's perspective aligned with the tribunal's decision, it was used as supporting justification, but when a child's perspective contradicted the ruling, the reasoning for discounting their views was often vague or absent. This suggests that the tribunal selectively referenced children's perspectives when reinforcing the existing placement logic but did not consistently weigh them as an independent factor in decision-making.

Discussion

This study's main objective was to better understand how the tribunal protects a child's right to family life through the care order. The thesis does not question the legitimacy of the necessity of the care order. Instead, it aims to provide insights into how a child's right to family life can be facilitated when public care is necessary. Boe (2020:28) emphasizes the distinction between law and its execution. Legal rules inform us about what the tribunal can and must do and the rights of both children and parents concerning the actions to be performed (here: care order and contact regulation). However, the practical implementation of the law, as revealed in studies I-IV of the thesis, addresses how the law is practiced and enforced. It involves differentiating between normative and descriptive phenomena. Adopting a social constructionist interpretive framework when approaching the tribunal's weighting and interpretation in care order proceedings, the findings of the studies highlight the need to explore how various interpretive frameworks provide perspectives for understanding the decision-making processes when the tribunal intervenes in a child's family life due to the necessity of a care order.

Firstly, the study observes a practice of strict contact regulation between children and parents when children are placed in public care. Usually, contact rights are limited to a few visits per year, of short duration, and are often supervised. A child's right to family life after a care order is issued actualizes the interplay between a child's right to family life and the necessity of protection, a recurring theme in studies I-III. Using a constructionist analysis inspired by Foucault (1972), the relationship between these rights and needs can be understood differently depending on the discursive regimes considered. A child's right to family life does not cease when a care order is issued, and facilitating this right has significant implications for human rights validity. Managing the right involves using professional discretion. Legislation and convention provisions represent the legal regime, setting external limits for discretionary practices. However, these provisions are interpreted differently, affecting the discretionary management of the right and increasing the risk of manipulation and arbitrariness (Goodin, 1986). ECHR Article 8 includes a negative obligation not to interfere with family life and a positive obligation to ensure it. In care order proceedings, the focus is often on the negative obligation to protect the child. The positive obligation to secure family life after a care order is issued involves facilitating 'mutual enjoyment' between the child and parents through contact regulation. Previous research (Alvik, 2021) suggests that the necessity of contact regulation is 'implicitly' justified through the necessity of the care order. This would imply there is a causal (linear) relationship between a child's need for public care and how to regulate the child's right to family life, and where the use of standardized terminology is defined sign of quality rather than a generalization that challenges a child's right to individual assessment. However, findings within this thesis challenge such understanding, questioning what appears to be standardization rather than professional discretion in defining the necessity of regulation. To safeguard a child's

right to family life after a care order is issued demands a broad understanding of what is in a child's best interest, interpreting the discursive legal regime in light of other discursive regimes such as behavioral science, psychological, moral, and social regimes.

Secondly, whether family ties are understood as an inherent value or a burden for a child is another theme that emerges from the findings of this study. How the value of family ties is understood may be argued closely related to how the tribunal interprets the child's need for protection after a care order is issued. In this way, the interpretation relates to the tribunal's management of theoretical and practical knowledge in decision-making (Grimen, 2008). However, there is limited theoretical knowledge, both nationally and internationally, on the significance of a child's contact (or absence of contact) with biological parents when living in public care (Alvik, 2021). Limited theoretical knowledge implies that decision-makers rely more on discretion in the decision-making process (Seim, 2020), and from a social constructionist standpoint, knowledge is thus constructed and anchored through the decision-making process (Berger & Luckmann, 1967). The tribunal still seems relatively consistent in what contact rights are considered best for children in public care, despite no newer research identified that closely examines the extent or exercise of contact rights between children and parents in public care. The practice indicates what Weber (1983) describes as purpose rationality, where the decision relates to consequential logical reasoning. However, the systematic reasoning appears to relate to hypothetical theoretical rather than practical knowledge (Grimen, 2008). In this way, contact regulation constitutes a theoretical, professional prediction of how contact may affect the child's establishment and function upon transfer to a new care base. However, balancing the child's right to family life and using prediction creates challenges worth dwelling on. Benbenishty and Fluke (2021) argue for an increased focus on the realism of how accurate such predictions can be. Considerable uncertainty is inherent in all decisions involving predicting human development and behavior. In this way, a decision-maker will not have a stronger foundation for predicting outcomes than the predictability human development has (Benbenishty & Fluke, 2021). Understood in light of Kahneman and Tversky (1979), the tribunal's use of professional prediction gives an impression of being anchored in the most familiar solutions, where they choose the first satisfactory option. Kahneman and Tversky (1979) were concerned with highlighting the shortcuts and biases that affect human decision-making, and the anchoring effect they describe can help explain the consistent contact regulation within the thesis, as well as Alvik's study (2021). The anchoring effect is a way to explain and understand what Dworkin (1978) describes as the development of internal practice arrangements or standards for exercising professional discretion. Legal methodology requires the tribunal to look at similar regulations through, for example, case law (Boe, 2020). At the same time, Dalberg-Larsen (2005) points out that other legislative complexes, underlying values, and principles also affect the decision-maker in exercising discretion. In this way, it can be explained how, for example, experiences described as 'good visitation' are set aside as an information base in favor of more established visitation regulations following a

change in the child's care arrangement. In a social constructionist analysis, the focus is on how decisions are made that promote various theories and descriptions without any one view becoming dominant (Solvang, 2020). It is important to recognize how different competing sociological, phenomenological, and psychological perspectives are evaluated and considered in this process. The lack of visibility in this regard is the pinpoint of this thesis.

Thirdly, findings within this study form a basis for reflecting on how the tribunal uses professional discretion to justify the child's right to participate in legal proceedings. A key aspect of the professional discretion's structural side is evident in the provisions of the Child Welfare Act and the Convention on the Rights of the Child, which require decision-makers to assess whether a child can form their own opinions about the matter being addressed. This structural aspect of professional discretion falls within what Dworkin (1978) describes as the external frameworks for the tribunals' discretionary assessments, not just concerning whether the child should be heard or how the child should be heard but also whether the child is considered capable of forming reasoned opinions about the matter being handled by the tribunal. However, descriptions within the care orders create an impression that the child's right to be heard is more related to age than maturity, where age dictates the scope for exercising discretion. This practice seems rooted in what Dworkin (1978) calls an established internal practice arrangement, standardizing discretion. Instead of processing information in individual cases, the child's age is placed in a broader context, stating the child's view weighted within a standardized category scale. Considering Foucault's (1972) various regimes, it can be argued that the tribunal's scaling and use of terminology to make visible what weight given to the child's view (e.g., 'not given weight,' 'some weight,' or 'strongly weighted') meets the normative demands placed within the legal regime. From a jurisprudential perspective, it can be claimed to be in accordance with current law. However, Foucault's (1972) social regime focuses on the child's experience of being heard and whether the weighting as it appears in the decision will align with the child's own experience of the statements being considered. In such a context, however, the scaling degree will not be particularly informative without further description of how it is applied. Using standardized wordings poses a risk of misjudgment since discretionary situations are marked by significant uncertainty. In this way, an understanding is constructed that the weighting work is more random than systematic, and the decision is made based on what Cohen and colleagues (1972) describe as known alternatives anchored in internal practice arrangements (Dworkin, 1978).

Fourth and last, the study's main findings highlight the need to examine what Dreyfus and Dreyfus (1999) call knowledge transfer. By understanding the tribunal's mandate and function from a systemic perspective, the systemic perspective highlights the need to expand what Bateson (1972) describes as the framework of understanding in which context the tribunal's care orders have influence and in what way. The systemic perspective here represents circular principles as an alternative interpretive framework to more linear

causal explanations (Jensen, 2009). It is rooted in one of Bateson's (1972) fundamental assumptions that interaction and interplay become the starting point for understanding. The CWS is responsible for the follow-up of children and parents after a care order is issued, with subsequent contact regulation. In this way, it can be said that the tribunal becomes the premise provider for the frameworks regulating the child's right to family life by being the first instance to make coercive decisions under the child welfare law. In the claim about being a premise provider lies the debate about legal governance and how the law, as it appears from the tribunal's decision, is further interpreted in different legal cultures around the child. Like the tribunal's use of professional discretion as a form of reasoning in decision-making, the CWS is expected to employ professional discretion in its management of the subsequent follow-up work after the tribunal's decision is made. Through the decision-making authority that the law provides the tribunal, a guiding role is simultaneously constructed through what Dreyfus and Dreyfus (1999) describe as a 'master' for how the legal rules should be managed when safeguarding the child's rights. In this way, it can be argued that the tribunal's decisions serve as an example of the assessment tool described by Benbenishty and Fluke (2021), presenting a practical instance of how legislation, policy, and legal practice should be employed in managing and reasoning the child welfare professional discretion within a given context. Standardized documentation of the tribunal's exercise of professional discretion consequently increases the risk of CWS establishing what Dworkin (1978) describes as internal practice arrangements for discretion rooted in the tribunal's established standardized internal practice arrangements. In this manner, the tribunal's practice shapes the framing effects described by Kahneman and Tversky (1979), where how something is presented, rather than its content, influences the CWS's discretion management. To prevent CWS from becoming what Zacha (2017) refers to as morally predisposed to standardize arguments in applying professional discretionary reasoning, the tribunal must show how various competing perspectives are incorporated into the decision-making process. This includes demonstrating the negotiation process between these perspectives by projecting weighting arguments across various discursive regimes.

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