

THE ETHICS OF STATE CHILD REMOVAL FOR RISK OF FUTURE EMOTIONAL HARM

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FOUR ISSUES

Definitions

1. What is emotional harm?
2. What is future risk?

Framework

3. Can we (is it legal)?
4. Should we (is it ethical)?

DEFINITIONS: EMOTIONAL HARM AND RISK

Emotional harm: ...State disciplinary technology of the body on the grounds of abuse of technology of the mind...

- Different to other forms of harm? Why? How?
- How was emotional harm understood when the Children Act 1989 was enacted?

The original intention of CA 1989 was that **emotional harm** was inflicted by certain types of parents with rigid attitudes to parenting. It was seen as a s.17 issue, not a child removal issue.

Risk:quantifying the future....

- Back to germ theory: a theory of prediction and prevention
- Epidemiology in child abuse prediction
- Expert reports: who is an expert? Is there over-reliance on experts' reports?

THE ENABLING FRAMEWORK: LAW AND ETHICS

Law

- No child can be removed by the State without operation of law. S.47 CA1989, S.31 CA1989 main relevant law.
- The process of selecting children for removal is a legal (forensic process).
- There must be a 'reasonable suspicion' of 'likely significant harm or the **risk** of it' to start an assessment.
- Selection for State intervention, assessment and removal of children is inevitably subject to significant regional and local variations.

Ethics

- Should future risk be sufficient grounds?
- Should there be State responsibility for damage caused by severing the biological tie? Better outcomes? Questionable.
- Conflating welfare with a forensic process is costly, problematic and stressful. Children and parents are left unrepresented, vulnerable and in a serious power imbalance from the outset.
- Argument for the 'other side' is that the State only acts in the 'best interests' of the child to whom it has a legal obligation. 'Child rights' NOT 'family support' based system
- We know the system was inefficient in 1991 (24.1%). It is now less efficient (7.4%). Can it be justified?
- **“Just because you can does not mean you should”**

RISK OF FUTURE HARM: OUR EMERGING FINDINGS

- The **MAJORITY** of files are cases based on the **risk** of harm and **NOT** actual harm. Future emotional harm features in many cases.
- The use of **expert evidence** features heavily in these cases. Not often challenged. Evidential foundation is weak.
- Certain populations of families are more likely to come to attention of the LA because of their characteristics. Local Authorities use algorithms to identify populations of interest. Other families are 'referred'
- Parents often **misunderstand** the basis of the assessments and its use. We are seeing desperate parents asking for help during assessments, failing to understand their disclosures are being used as part of a process to remove their child.



Once a family has 'boarded the carousel' it is very difficult to stop the ride. Virtually the only way to stop the carousel is compliance.



INFORMATION ABOUT OUR RESEARCH PROJECTS

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