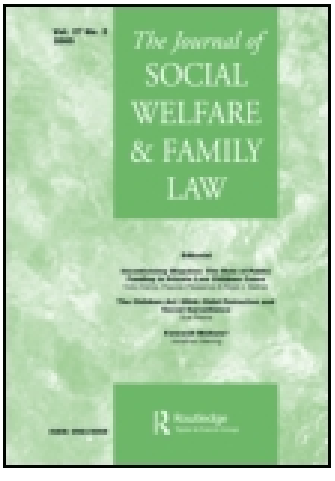

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Private and public voices: Does family group conferencing privilege the voice of children and families in child welfare?

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This article examines the use of family group conferencing in child protection and considers its ability to privilege the voice of children and families who reach the attention of statutory child protection services. The family group conference (FGC) is a process of family decision-making in child protection, originally developed in Aotearoa New Zealand, and now practised in many countries including the UK. Examining the literature and research relating to the FGC it considers whether the approach provides a genuine context of participation and partnership, or whether it has become an instrumental professionally led practice as families are charged with greater responsibilities for children at risk.

Keywords: family group conference; children's rights; family engagement

Introduction

Over the past 25 years child welfare systems have been exploring more collaborative ways of resolving child protection issues. Family Group Conferences (FGCs) – also referred to as family group decision-making – formalise an approach to resolving problems in families and giving a greater decision-making voice to families when children are referred to protective services. This article looks at the family group conference and the ways in which it attempts to create a space for families to come together and work through complex issues of child protection, something that is rarely available to them during formal court processes. Examining the literature and research relating to family group conferencing, it considers whether the approach provides a genuine context of participation and partnership, or whether it has become an instrumental, professionally led practice as families are charged with greater responsibilities for children at risk.

Origins of the FGC

This approach was first given legal recognition in Aotearoa New Zealand in the Children and Young Persons and Their Families Act 1989. The Act is built on principles of *participation* by 'a child's or young person's family, whanau, hapu, iwi,[1] and family group' in decisions affecting a child, and on strengthening these relationships (s. 5). These principles sit alongside welfare paramountcy (s. 6). The Act requires the holding of a Family Group Conference where children are considered in need of care and protection unless immediate action is required. Even in situations where emergency protective action is taken and the matter goes before the court, an FGC is required to inform court decision-making. There are detailed statutory provisions relating to the arrangements for FGCs, attendance at them, provision of advice to families, procedure, privilege and their consequences. Under the Aotearoa New Zealand legislation, a suitable plan agreed at a

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FGC must be respected by the statutory child protection service. Only if there is no agreement at the FGC, or the plan fails to provide for the care and safety needs of the child, is it possible for child protection services to take legal action to intervene in the family (i.e. to initiate care proceedings).

The FGC has now been a practice model in Aotearoa New Zealand for almost 25 years and has become the primary decision-making mechanism used to resolve state concerns about the behaviour and well-being of children in the context of statutory practice. In the years 2010/2011, 7870 care and protection FGCs were held (Ministry of Social Development [MSD], 2011). A further 7423 FGCs were held to resolve matters relating to youth offending. Since its introduction in New Zealand, the FGC model has been adopted in Australia, Canada, continental Europe – particularly Scandinavian countries, the USA and the UK. In Australia, the state of Victoria first introduced FGCs in the early 1990s, followed by all other states with the exception of the Northern Territory (Harris, 2008). The Victorian Aboriginal Family Decision Making Model is considered a strength of the Victorian child protection system. Indeed, a recent review has recommended that the programme become the preferred decision-making process for Aboriginal children in situations of substantiated abuse or neglect (Cummins, Scott, & Scales, 2012). In England, statutory guidance advises local authorities 'to consider referring' the family to a FGC service if there is 'a possibility that child may not be able to remain with their parents' (Department for Education [DfE], 2014, p. 2.24). Nevertheless, a third of English local authorities do not have access to a service (Family Rights Group [FRG], 2012).

Whilst FGC use is optional in many countries, there is strong support from the non-government sector, for example, the American Humane Society in the USA and the Family Rights Group in England and Wales. Development without a statutory framework has led to some loss of fidelity, with case social workers rather than independent coordinators convening conferences and even participating in family discussions. This raises questions about whether other family led processes within the FGC may be equally compromised, resulting in the process being no different from any other social work run family meeting, where professional power pertains (Healy, Darlington, & Yellowlees, 2012).

How the FGC works in practice

The FGC model brings the family, including the extended family, together in a solution focussed, family-led process of decision-making. Key features of this approach to decision-making are: (1) an independent co-ordinator, with responsibility for contacting family members and convening the conference; (2) a restricted role for social workers, limited to explaining the concerns about the child to those attending the conference; (3) private time for the family to discuss and produce a plan without the presence of professionals; and (4) a special status for the plan devised at the conference, requiring it to be accepted unless it is not sufficient to safeguard the child. However, these are not always adhered to even where practice is strongly established (Connolly, 2006).

Membership of the conference should be determined between the family and the co-ordinator with the aim of including all who can contribute to making a plan. In New Zealand, members of the extended family have a legal entitlement to attend the FGC and extended family decision-making is promoted. Others, for example community members, health and/or educational professionals, can be invited by the coordinator for the purposes of providing information, but they are not entitled to attend the FGC, nor do they have a role in decision-making. Where formal entitlements are not enshrined in law parents may

influence who is invited to the conference (Chandler & Giovannucci, 2004). In some systems, for example one operating in the Netherlands (Beek, 2004), conference invitations are not limited to 'family' but can extend to members of the community who know the child.

As practised in New Zealand, the FGC has three phases: information sharing; private family time; and reaching agreement. In general, international practice has followed this meeting format. The information-sharing phase involves the worker(s) clearly articulating the concerns held for the child and the outcome of the child protection enquiry. This is an opportunity for the family to raise questions and clarify aspects of the investigation. This phase is important as it provides the family, and in particular the extended family, with the necessary information to make informed decisions that will shape future care and protection for the child. The meeting then moves on to the private family time, arguably the more controversial aspect of FGC practice. This is the phase of the meeting when professionals are asked to withdraw from the meeting to leave the family to deliberate in private and formulate plans that will keep the child safe. Some of the dynamics of this particular phase will be discussed later in the context of considering power and the hearing of individual voices within a collective decision-making process. During private family time the family may call back professionals to clarify issues that have emerged during the discussion. Once the family are ready to move forward the professionals come back to the meeting and the 'reaching agreement' phase begins. This involves the coordinator facilitating a process that will support agreement to the family plan.

Although the meeting phases of the FGC might seem relatively straightforward, in practice involving extended family in decision-making is a complex endeavour. Abusive dynamics may characterise family interactions, or there may be feuding within the family. Bringing FGCs together also brings with it a responsibility to protect vulnerable family members, and to ensure that the process is focussed on securing safety and security for the child. This requires significant pre-conference preparation – a critical component of good FGC practice. A high level of skill is required for the coordinator to both manage pre-conference dynamics, and deal with the tensions and difficulties that emerge during the meeting itself.

Power relations and FGCs

The resonance of FGCs in terms of Maori cultural practices, their development in the 1990s and particularly their use with marginalised communities serve to highlight the FGC's potential to reduce the imbalance of power between 'service users' and professionals, and thus avoid the disempowering or oppressive aspects of state intervention. However, it cannot be assumed that the availability of FGCs simply increases the power of families or necessarily reduces the power of the state. The wider context is likely to contribute to the extent to which the process is experienced as empowering by family members. For example, the parents may already be appearing before the court and the child may be in an alternative care arrangement, with family or in foster care. Or family decision-making may be compromised by fears of the matter being taken to court. Moreover, expectations within the family of members' privacy and involvement in decisions, relationships between family members and the practices of FGC cordinators may all contribute to how far individuals feel empowered, and indeed where the locus of control actually lies.

The legal framework for FGC services is crucial to the balance of power: is the state required to make provision or not? There is a spectrum of provision, from the

New Zealand position where (subject to exceptions) the FGC is a pre-condition to state intervention, to the position in England and Wales where there is no current requirement for local authorities to have access to a FGC service. In between, there are examples of systems with a duty on the state 'to offer' a FGC (Australian Capital Territory, ACT; Tasmania) or 'to accept plans' (the Netherlands) about children's care that meet a bottom line. The Dutch system, which has been used to promote FGCs and is now enshrined in legislation, does not require the family's plan to be made at such a meeting but services are freely available and families can self-refer (Beek, 2004). The existence of a duty *to offer* reflects a policy commitment by the state which emphasises that decisions about use are shared with the family, not simply a matter of worker discretion. This is important in the light of evidence that child protection workers, even those who support the use of FGCs, have difficulty deferring to families (Holland, Scourfield, O'Neill, & Pithouse, 2005) and control access to FGCs by deeming cases unsuitable (Lupton & Nixon, 1999; Marsh & Crow, 1998). Also, in a context where there is always severe pressure on resources, making FGCs optional for the state may mean that services are not developed, or are cut – a duty requires resources are made available.

The introduction of FGCs is an example of 'responsive regulation' (Braithwaite, 2002; Braithwaite, Harris, & Ivec, 2009) where the state cedes some of its power by first giving the family an opportunity to resolve problems and intervenes only if they fail to do so sufficiently. The nature of the opportunity depends on when it is provided: early in the child protection process so alternative solutions are possible, or only later when out-of-home care is inevitable and practice may focus on how to get agreement to it. However, FGCs can also be viewed as fitting with the political trend to (re-)privatise the family, placing responsibility for solving family problems primarily on the family, and with little regard for family members' capacity and resources. Such 'privatisation' formalises the state's role as residual by underlining that intervention occurs only because the family has been unwilling or unable to offer any alternative, and in this way justifies state intervention. These contrasting perspectives reflect the ambiguity of the state's position: supporting family decision-making or abandoning responsibility. In this context, it is possible that positive notions of responsive regulation and family empowerment mask negative concerns. These concerns include whether the FGC process removes too much of the state's protection from individuals, colludes in oppression within the family, or fails to protect the voices of weaker family members. All of them may result in decisions which do not serve the interests of children well.

Use of FGCs is not compulsory for families but failure to accept carries with it the threat of greater state involvement, particularly if the offer of a FGC only occurs at the very edge of care. In a similar way, the response to parents' failure to attend meetings to discuss social workers' concerns and how to avoid care proceedings precipitates proceedings (Masson, Dickens, Bader, & Young, 2013). In even the most cohesive family group there are likely to be a range of differing/conflicting interests so that such threats hold different risks for different family members. Not only do FGCs have the potential to change decision-making between the state and the family, they can also change the power balance *within* families. Whilst this may be positive (Holland et al., 2005), there are risks that it will not be, and that more vulnerable family members remain powerless despite an aura of family self-determination.

Where a FGC is held, private family time offers both an opportunity and risk. The opportunity is created through a family-led formulation of a plan without the contents being shaped by professionals. There is nevertheless a risk that dominant voices within the family may override the best interests of others. Families may, therefore, have little

opportunity to experience serious discussion or joint problem-solving, despite private family time in many respects being the heart of the process. On the other hand, private family time provides potential for family members to challenge each other, resulting in greater family self-regulation (Connolly, 2006). These dynamics create tensions and complexities, particularly where relationships are strained by circumstances and the stakes are high. The combination of pressure from professionals and family members will inevitably influence who feels able to speak and who is heard through the process.

Privileging voices and the protection of the family voice

Although many jurisdictions have policies in place that promote active participation by children and families in matters relating to child protection and welfare, it is also clear that practices in child protection have become increasingly interventionist, often struggling to engage families in positive processes of change. More risk-averse and increasingly forensic child protection responses have been influenced by rising notifications of children at risk, increased negative media exposure of high-profile cases, and heightened expectations that child protection workers will never miss a child at risk. This presents a context of competing voices and discourses as Connolly (2009, p. 310) notes:

> It is within this highly pressured and risk-averse child welfare environment that the ideals of family empowerment, restoration, and participation must compete with risk discourses and the forensic application of procedure and law.

Risk aversion can push practitioners, and the agencies within which they work, toward more professionally-driven practices where the professional voice becomes dominant (Connolly & Morris, 2012). In this context family group conferencing risks becoming an operational tool that enables professionals to move children as quickly as possible to a placement in the wider family, and to access care, which is less costly to the state (in terms of legal and administrative services) rather than being a process supporting family empowerment and decision-making. In the UK, recent recommendations supporting the use of the FGC to hasten adoption by reaching agreement that there are no potential carers in the family illustrate the potential for the FGC to become instrumentalised:

> … the use of a family group conference to assess the viability of a large number of family members as carers has effectively saved time and resources … (Office for Standards in Education, Children's Services and Skills [Ofsted], 2012, p. 15).

This instrumental and strongly interventionist approach is arguably inimical to practices that place family at the centre of decision-making.

The protection of the family voice, particularly during legal proceedings, presents a number of challenges to the wider privileging of family voices. The idea of the family as a private space, protected from state intervention without justification and due process is fundamental in Anglo-American legal thought. Parents are responsible for their children, and that responsibility includes making decisions and controlling information about their lives (Fortin, 2009). Of course there are exceptions. A wide range of professionals are required or expected to share information for children's protection (H.M. Government, 2008; Department for Education, 2013) but in the context of UK practice, parents are entitled to expect that information about their children will not be disclosed to other family members without their consent. This approach leads relatives, particularly grandparents, to complain that their interest in their grandchildren's well-being is not recognised. It can mean that potential carers from the wider family remain unaware of the child's position until after local authority plans have been prepared. Where extended family participation

is not an entitlement in legislation, engaging the wider family is primarily a matter of sensitive negotiation with parents (and young people) who will know far more about the likely responses to the information. Anything else risks destroying any trust, making it harder to secure children's well-being. Indeed, sensitive negotiation is critical even when extended family participation is supported by law. An important aim of the FGC is to bring together the family in a solution-focussed process where the centre for concern is the child's care and safety. However for FGCs to be effective and empowering, the family needs to be well prepared for participating in the process, and skilled facilitation is needed to manage potentially disruptive dynamics.

Children's privacy also creates complex issues. Although courts are public bodies, family courts generally take steps to protect the privacy of children and families who are the subjects of decisions (Brophy & Roberts, 2009). In England and Wales, this traditional approach has been the subject of recent media pressure, with campaigns against 'court secrecy' (Cavendish, 2008; Ministry of Justice, 2008) and legislative reform. Journalists (but not the public) may now attend most family proceedings but reports identifying children are not permitted and there is currently no access to documents other than anonymised judgments. It is likely that this will change as the judiciary adopt a policy of transparency to demonstrate the legitimacy of their decisions (Munby, 2014). Children sometimes express concern that their lives will become public if the courts become involved (Thomas, Lowe, & Beckford, 1999) and from families' perspectives, courts with busy public waiting areas may not appear at all private. Family discussions may seem to offer more privacy, provided that confidences are not shared more widely.

When matters come before the family court, informal negotiations between those who have a recognised role in the family and/or a contribution to make are replaced by formal procedure and rules of evidence as a means of securing due process. The messiness of family discussion is replaced with order, but at the expense of limiting participation, restricting information flows, focusing on adults' rights and narrowing the options considered. Legal process is time consuming and costly, and this can exclude participation by relatives who do not qualify for legal aid. If the child's care is contested, the court must consider evidence and weigh up the competing alternatives. Pressure on court time and the difficulty of making such decisions has encouraged courts to find other ways of resolution. In this context, referral to a FGC is an attractive solution for the court. However such instrumental use ignores questions about the possibility of generating a child-focussed solution, rather than an arrangement to satisfy the court, and whether earlier involvement of family members could have avoided conflict arising.

The child's voice

Whether FGCs can enable children's participation, and, if so, how best to privilege the child's voice, remains an issue. There has been growing recognition over the last 30 years of children's agency (James, Jenks, & Prout, 1998) and children's rights (Connolly & Ward, 2008; Fortin, 2009). Children who have the maturity to make decisions have the legal right to do so (*Gillick v West Norfolk and Wisbech Area Health Authority and DHSS* [1986] A.C. 112 (H.L.)) unless this is excluded by law, and have rights to confidentiality (H.M. Government, 2008).

The courts in England and Wales have responded to these developments, reducing the age at which they take account of children's views, relaxing paternalistic attitudes that automatically exclude children and recognising that court orders for their care and contact require children's cooperation (Fortin, 2009). Judges have been given guidance about

seeing children (Family Justice Council, 2010), although this practice remains exceptional. Children are the subjects of care proceedings, and are represented but are rarely present at court; parents' rights and wishes tend to dominate the hearings (Pearce, Masson, & Bader, 2011). Decisions concerning a child's care are made applying the welfare principle, which includes taking account of the child's 'wishes and feelings'. The court 'hears' these via a written report from the children's guardian, who also has responsibility for advising the court about the child's welfare and, usually, instructing the child's lawyer. Communication between court and child is limited, with an average of four contacts with the children's guardian during the case, although older children are likely to be seen more (Cafcass, 2013). Whilst such indirect communication may be entirely appropriate for the majority of children, who are under five years old, distancing the court from children has also meant a lack of focus on the need for speedy decisions (Pearce et al., 2011). Rather than providing a gold standard for decision-making, court practice illustrates how adversarial practice allows professionals with little or no direct relationship with the child and family to shape the process and determine the outcome.

Whilst it is important to consider the degree to which the child's voice is heard within court proceedings, the child's voice in FGC practice also clearly deserves consideration. Within the New Zealand legislative framework the child is an entitled member of the FGC, and therefore has participatory rights. However, for a variety of reasons, children may not attend the FGC that is convened for them – the coordinator has wide-ranging power to exclude people, including the child, from the meeting. Also, children's physical presence does not necessarily reflect their active participation. Whether or not the FGC promotes the voices of children is a complex question and one that is shared across the range of interventions and service systems that respond to the needs of children. Several studies that have explored children's experiences within the FGC process suggest that children draw a distinction between attending a meeting and true participation in the process – being listened to is not the same as being influential (Connolly & Morris, 2012). Nevertheless, studies also indicate that children do feel that they have a say and prefer family decision-making processes to professional processes (Holland et al., 2005; Laws & Kirby, 2007). It is clear that specific skills are required if children are to be enabled to contribute to decisions about their lives. The high emotional content of FGC discussions can be stressful for children, and supportive adults, including FGC coordinators, are likely to be protective toward vulnerable children. Strategies that promote the child's voice need to be explored. For example, children may write a letter to the conference, or children may be assisted in participation by a family member. In these situations the FGC may be able to consider both the children's wishes and views about their welfare. Including an advocate for the child from beyond the family circle is possible in New Zealand and where FGCs have a broader membership, as in the Netherlands.

The family voice

FGC research is generally underdeveloped and dogged by methodological weaknesses (Morris & Connolly, 2010). However, there are illuminating insights relating to participants' voices that can be drawn from the mix of small and innovative evaluations, along with the more substantial research projects, that have been undertaken in recent years. A significant number of studies have found high levels of family satisfaction with the FGC process (Crow, Marsh, & Holton, 2004; Falck, 2008; Holland, Aziz, & Robinson, 2007; Titcomb & LeCroy, 2003, 2005), and it is clear that families are very positive about opportunities to become involved in decision-making about their children. Whilst general

satisfaction with the processes has been positive, there have been contradictory findings relating to private family time. While some research suggests that this is seen by professionals as empowering (Connolly, 2006), other research indicates mixed responses from families (Holland et al., 2005), and some parents have indicated a reluctance to involve extended family (Terry Stanford Institute of Public Policy, 2006). As noted earlier, what may be seen as empowering by professionals may not necessarily be seen in the same way by the families involved.

The question of what happens within FGCs remains largely under-researched. As in legal process, presence does not necessarily signify real participation; there may be no opportunity to offer a view in the presence of particular people or a person's view may be discounted. Thus it is challenging to know whose voices are heard (directly or indirectly) through the use of FGCs. It could be argued that the FGC is just a meeting that creates a space for people to come together to work through child protection issues. As such it provides collaborative space that enables families to operationalise their ethic of care (Morris, 2007), and a means through which they can exercise their right to participation. This raises a further question: whether family group conferencing is intrinsically associated with basic human rights, or whether it is a service intervention that professionals have discretion to use or not.

From a rights perspective, individuals have a moral and human right to self-determination and meaningful participation in decisions by others about their lives (Freeman, 2010). A core principle of human rights is the right to lead one's own life, and to 'evaluate, choose, deliberate, and plan' for one's self (Nickel, 2007, p. 63). This critically defends human autonomy and has the potential to direct practice that is respectful and in accordance with human agency. Parents and extended family members have the right to guide children's lives, and children have the right to express views on all matters affecting them, and have these views considered properly (United Nations Convention on the Rights of the Child, arts 5 and 12(1)). The right to respect for private and family life under article 8 of the European Convention on Human Rights includes the right to be involved in decisions about one's children (*R v UK* [1988] 2 FLR 445 (ECtHR)). Once a rights-based justification is established it is difficult to argue against engagement in decision-making as a basic human right. Of course, the issue of how far parents have their human rights curtailed when they are deemed to have failed in their responsibilities to their children is important to consider. Professionals may struggle to accept that abusive or neglectful parents also have a right to make decisions and plan for their children. The issue of the child's competency to participate in decision-making is also complex. Taking a rights-based approach nevertheless helps to navigate a fair course through these ethical dilemmas (Eekelaar, 1994, 2004). If parents who have hurt their children are valued as fellow humans who deserve the opportunity to work with dignity toward positive solutions to keep their children safe, then there is no reason not to take a rights-based approach and involve them in decision making. Also, the dominance of the nuclear family can serve to exclude the wider family, or at least to deny any right to be involved.

Conclusion

The use of Family Group Conferencing raises many questions as jurisdictions explore new ways of giving effect to partnership practice with children and families. Is the FGC fundamentally based on notions of participation, giving a voice to vulnerable children and their families? Or is it a tokenistic model of participatory practice that is readily hijacked by professionals to manage professional issues such as the spiralling costs in providing

safe care for vulnerable children? Perhaps inevitably, these questions give rise to further questions relating to: state power and coerciveness versus the mobilisation of professional safety nets for children; the responsibilities of the state to democratise family processes; and notions of openness versus the privacy of the family space.

It is clear that the tension between the care and control functions of state jurisdictions is exacerbated when facilitating participatory practices in child protection. Family decision-making rests at the very heart of the FGC. It is a practice that requires professions to cede power in a process of shared decision-making, whilst at the same time giving effect to protective powers that are important in keeping children safe. Managing this tension, particularly within more risk-averse child protection contexts, requires a significant degree of commitment to participatory practice on the part of the professionals and the agencies supporting their work. It is perhaps not surprising that in New Zealand the FGC, deeply embedded in law, policy and practice, is now well established as the key decision-making mechanism for children at risk. The state is required by law to give effect to family decisions, although it is also clear that the statutory colonisation of the FGC has had a gatekeeping effect where practice is positioned late in the process when other interventions have failed. Yet without this formalised mandate a family's access to the FGC relies largely upon agency commitment and professional discretion. Under these circumstances there is no state responsibility for the provision of services that support a family plan, creating the very real potential for the coercive exploitation of the family.

Whether the state has a role in democratising the family is an interesting question when considered in the context of participatory practices in child protection. It has been argued that state systems have a key role in redesigning societal institutions, and as they do so they have a democratising effect (Shapiro, 1999). Through international conventions and governance, for example the United Nations Convention on the Rights of the Child, state parties can be seen to democratise family life, whilst at the same time exercising minimal interference in family life. Over time this democratisation influences family norms. For example, compulsory schooling for children established the foundation for a widely accepted expectation that children need, and have a right to, an education. The prohibition of physical punishment of children is another example of the state exercising a public health approach, this time aiming to shift norms associated with child maltreatment so that harsh parenting is less common across the whole population. Broadening the responsibility for children at risk – for example, promoting notions of child protection as 'everyone's business' – can be seen as an attempt to shift public attitudes toward the care and protection of children. A similar approach could see the state increasingly democratise child protection processes through the extension of responsibilities and authority for children that includes extended families and supportive adults within and across communities.

This broadening of responsibility for children nevertheless presents challenges relating to the openness and transparency of family matters. The FGC, with its focus on sharing information and decision-making, could be seen as being contrary to the parent's privacy rights. At the same time, calls for the development of FGCs are based on rights, and can be seen to meet the obligation of some states to respect private and family life (ECHR, art. 8). Whilst these issues are not easily resolved, it may be that with increasing expectations relating to openness in court-related matters and child protection more generally, the FGC could provide tractable ways in which ethical issues relating to privacy can be negotiated in ways that respond to the concerns of children, parents and wider families.

Whether the FGC gives voices to vulnerable children and their families or is seen as a mechanism of professional expediency is likely to depend upon the system's rationale for introducing the FGC into practice. In Aotearoa New Zealand the origins and practices of

family group conferencing are set within a rights-based paradigm, reflecting concepts of social justice and cultural responsiveness. Yet even in that country, there is evidence of practice slippage towards more professionally dominated processes (Connolly, 2005), illustrating the tensions that exist when trying to privilege the family voice in complex matters of child protection. Practised with integrity the FGC will nevertheless appeal to professionals who want to show respect for families and avoid using coercive power to achieve change. They may also avoid the need for court intervention, arguably the most extreme expression of the professional voice.

Note

1. Whanau, hapu and iwi do not translate readily into western concepts of family, but most closely approximate a range of meanings from extended family to tribal affiliation, and comprise the familial kinship structure upon which Maori society is based.

References

Beek, F. (2004). *Eigen Kracht Conferences: the first experiences in the Netherlands*. Retrieved from http://www.eigen-kracht.nl/sites/default/files/EKC+first+experiences+2004.pdf [accessed 25 March 2014].

Braithwaite, J. (2002). *Restorative justice and responsive regulation*. New York, NY: Oxford University Press.

Braithwaite, V., Harris, N., & Ivec, M. (2009). Seeking to clarify child protection's regulatory principles. *Communities, Children and Families Australia*, *4*, 5–21.

Brophy, J., & Roberts, C. (2009). Openness and transparency' in the family courts: What experience in other countries tells us about reform in England and Wales. In *Family policy briefing 5*. Oxford: Oxford University Department of Social Policy and Social Work. Retrieved from http://www.nuffieldfoundation.org/media-access-family-courts [accessed 25 March 2014].

Cavendish, C. (2008). Family justice: The secret state that steals our children'. *The Times*. 6 July. Retrieved from http://www.whale.to/a/camilla_cavendish.html [accessed 25 March 2014].

Chandler, S., & Giovannucci, M. (2004). Family group conferences: Transforming traditional child welfare policy and practice. *Family Court Review*, *42*, 216–231.

Children and Family Courts Advisory and Support Service. (2013). *The work of children's guardians*. London: Cafcass.

Connolly, M. (2005). Fifteen years of family group conferencing: Coordinators talk about their experiences in Aotearoa New Zealand. *British Journal of Social Work*, *36*, 523–540.

Connolly, M. (2006). Up front and personal: Confronting dynamics in the family group conference. *Family Process*, *45*, 345–357.

Connolly, M. (2009). Family group conferences in child welfare: The fit with restorative justice. *Contemporary Justice Review*, *12*, September 309–319.

Connolly, M., & Morris, K. (2012). *Understanding child and family welfare: Statutory responses to children at risk*. London: Palgrave MacMillan.

Connolly, M., & Ward, T. (2008). *Morals, rights and practice in the human services: Effective and fair decision-making in health, social care and criminal justice*. London: Jessica Kingsley Publishers.

Crow, G., Marsh, P., & Holton, E. (2004). *Supporting pupils, schools and families: An evaluation of the hampshire family group conferences in education project*. Sheffield: University of Sheffield and Hampshire County Council.

Cummins, P., Scott, D., & Scales, B. (2012). *Report of the Protecting Victoria's Vulnerable Children Inquiry*. Melbourne: Department of Premier and Cabinet. January 2012.

Department for Education. (2013). *Working together to safeguard children*. London: TSO.

Department for Education (DfE). (2014). *Statutory guidance on court orders and pre-proceedings*. London: DfE.

Eekelaar, J. (1994). The interests of the child and the child's wishes: The role of dynamic self-determinism. *International Journal of Law, Policy and the Family*, *8*, 42–61.

Eekelaar, J. (2004). Personal rights and human rights. In P. Lødrup & E. Modvar (Eds.), *Family law and human right* (pp. 179–194). Oslo: Gyldendal.
Falck, S. (2008). *Do family group conferences lead to a better situation for the children involved?* Oslo: NOVA (Norwegian Social Research), Ministry of Education and Research.
Family Justice Council. (2010). *Guidelines for judges meeting children who are subject to family proceedings*. London: Family Justice Council. Retrieved from http://www.judiciary.gov.uk/JCO%2FDocuments%2FFJC%2Fvoc%2FGuidelines_+Judges_seeing_+Children.pdf [accessed 25 March 2014].
Family Rights Group (FRG). (2012). *Written evidence to the justice committee pre-legislative scrutiny of the children and families bill 2012 H.C 739*. Retrieved from http://www.publications.parliament.uk/pa/cm201213/cmselect/cmjust/739/739vw01.htm [accessed 25 March 2014].
Fortin, J. (2009). *Children's rights and the developing law*. Cambridge: Cambridge University Press.
Freeman, M. (2010). The human rights of children. *Current Legal Problems*, *63*(1), 1–44.
Harris, N. (2008). *Family group conferencing in Australia 15 years on* Issues, No 27. Melbourne: The Australian Institute of Family Studies.
Healy, K., Darlington, Y., & Yellowlees, J. (2012). Family participation in child protection practice: An observational study of family group meetings. *Child & Family Social Work*, *17*(1), 1–12.
H.M. Government. (2008). *Information sharing: Guidance for practitioners and managers*. London: Department of Children, Schools and Families.
Holland, S., Aziz, Q., & Robinson, A. (2007). *The development of an all-Wales evaluation tool for family group conferences: Final research report*. Cardiff: Cardiff University.
Holland, S., Scourfield, J., O'Neill, S., & Pithouse, A. (2005). Democratising the family and the state? The case of family group conferences in child welfare. *Journal of Social Policy*, *34*, 59–77.
James, A., Jenks, C., & Prout, A. (1998). *Theorizing childhood*. Chichester: Wiley.
Laws, S., & Kirby, P. (2007). *Under the table or at the table: Supporting children and families in family group conferences – a summary of the Daybreak research*. Brighton: Brighton and Hove Children and Young People's Trust.
Lupton, C., & Nixon, P. (1999). *Empowering practice: A critical appraisal of the family group conference approach*. Bristol: The Policy Press.
Marsh, P., & Crow, G. (1998). *Family group conferences in child welfare*. Oxford: Blackwell Science.
Masson, J., Dickens, J., Bader, K., & Young, J. (2013). *Partnership by law? The pre-proceedings process for families on the edge of care proceedings*. Bristol: School of Law Bristol University. Retrieved from http://www.bris.ac.uk/law/research/researchpublications/ [accessed 25 March 2014].
Ministry of Justice. (2008). *Family justice in view* Cm 7502. London: The Stationery Office.
Ministry of Social Development [MSD]. (2011). *Annual report: 2010/2011*. Wellington: New Zealand Government.
Morris, K. (2007). *Camden FGC service: An evaluation of service use and outcomes*. September. Retrieved from http://www.frg.org.uk/pdfs/Camden%20FGC%20Service.pdf. [accessed 25 March 2014].
Morris, K., & Connolly, M. (2010). Family decision-making in child welfare: Challenges in developing a knowledge base for practice. *Child Abuse Review*. Wiley Online Library, doi:10.1002/car.1143
Munby, J. (2014). *Transparency and the family courts, practice guidance*. Retrieved from http://www.judiciary.gov.uk/Resources/JCO/Documents/Guidance/transparency-in-the-family-courts-jan2014.pdf [accessed 25 March 2014].
Nickel, J. W. (2007). *Making sense of human rights* (2nd ed.). Oxford: Blackwell.
Office for Standards in Education, Children's Services and Skills (Ofsted). (2012). *Right on Time: Exploring delays in adoption*.
Pearce, J., Masson, J., & Bader, K. (2011). *Just following instructions? The representation of parents in care proceedings*. Bristol: School of Law, Bristol University. Retrieved from www.bristol.ac.uk/law/research/researchpublications/2011/justfollowinginstructions.pdf [accessed 25 March 2014].
Shapiro, I. (1999). *Democratic justice*. US: Yale University Press.
Terry Stanford Institute of Public Policy. (2006). *Multiple response system (MRS) Evaluation report to the North Carolina Division of Social Services (NCDSS)*. Durham, NC: Duke University,

Center for Child and Family Policy. Retrieved from www.ncdhhs.gov/dss/publications/docs/mrs_eval_rpt_6_30_06_all_combined.pdf [accessed 25 March 2014].
Thomas, C., Lowe, N., & Beckford, V. (1999). *Adopted children speaking*. London: British Agencies for Adoption and Fostering.
Titcomb, A., & LeCroy, C. (2003). Evaluation of Arizona's family group decision making programme. *Protecting Children*, *18*, 58–64.
Titcomb, A., & LeCroy, C. (2005). Outcomes of Arizona's family group decision making programme. *Protecting Children*, *19*, 47–53.