

**The quality of out-of-home placement decisions: Individual characteristics of and
agreement among decision-makers**

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Current concerns about objectivity of decision-making in out-of-home placements

Decision-making in child protection cases should be objective, well-structured and based on empirical evidence (Harnett, 2007). Historically, Lady Justice – the allegorical personification of moral justice – wears a blindfold, indicating that judicial decisions should be impartial and unbiased by subjective factors (Hamilton, 2005). Practice is otherwise, unfortunately. Previous research has shown that professionals often disagree about decisions regarding out-of-home placements (Bartelink, van Yperen, Berge, de Kwaadsteniet, & Witteman, 2014) and the decisions are furthermore influenced by characteristics of decision-makers (which include children's court judges and child welfare professionals) such as work experience (Benbenishty, Segev, Surkis, & Elias, 2002), professional background (Britner & Mossler, 2002), or psychological factors (Rodrigues, Calheiros, & Pereira, 2015), suggesting that Lady Justice's blindfold may offer a lesser guarantee of impartiality and freedom from bias than is commonly thought and desired. Whilst it is obviously of great importance to practitioners on the Bench and Bar alike to become aware of the operation of such factors, the existing state of knowledge on the matter is inconclusive. Some studies have reported no discrepancies arising from decision-makers' work experience or background, and studies regarding the influence of psychological factors are scarce and inconclusive (Arad-Davidzon & Benbenishty, 2008). Furthermore there is little empirical evidence on effective ways to improve the quality of decision-making. Our study addresses these limitations. In the first part of the study we examined whether and to what extent work experience, professional background and psychological factors influence decision-making regarding out-of-home placements. In the second part of the study we investigated whether the quality of out-of-home placement decisions could be improved by providing decision-makers with information about parents' response to an intervention. We used professional agreement as an indicator for the quality of

out-of-home placement decisions, because more agreement between professionals signifies enhanced objectivity.

Judicial and child welfare professionals decide the same cases differently

In the Netherlands, and in many other countries including the United Kingdom and the United States of America, judicial and psychological professionals work alongside each other in the decision-making process regarding out-of-home placements. Children's court judges consult with child welfare professionals to obtain information about the family circumstances and history of care regarding the family from which removal of a child is requested. Research shows that these two groups of professionals disagree regarding both the kind of information that should be used and as to the final outcome (Britner & Mossler, 2002). One striking example of this disagreement is that members of the judiciary are more inclined to place children in protective care whereas child welfare professionals are more inclined to advise voluntary parenting classes or therapy (Britner & Mossler, 2002). These findings suggest that children's judges and child welfare professionals take their decisions from different perspectives, which feature undermines the claim to objectivity of decision-making. Also there is an indication from research that the amount of professional experience which an individual has may influence his or her out-of-home placement decisions, more specifically manifested in the tendency of inexperienced professionals to make a higher risk assessment than do experienced professionals, which outcome is found in some studies (Bartelink et al., 2014) whilst some other studies reveal no differences.

Hypothesis 1: Mind-set and attitude play a role in decision-making

It has been argued that implicit cognitive theories should be deployed to analyse decision-making in the field of out-of-home placements (Garb, 2005), as it is thought that characteristics

such as a professional's mind-set towards change in general and the professional's attitude towards out-of-home placements in particular, may play an important role in the decision-making process (Davidson-Arad & Benbenishty, 2016). Mind-set towards change refers to the implicit belief that a professional has regarding human behaviour, and more specifically to his or her belief in the possibility that other people are capable of changing their behaviour (Dweck, Chiu, & Hong, 1995). Professionals with a fixed mind-set towards change believe that other people, more specifically, parents, are not capable of changing their behaviour, whereas professionals with a more flexible mind-set believe that other people can ring the changes. Another important psychological factor to consider is the attitude of a professional towards out-of-home placements in general (Davidson-Arad & Benbenishty, 2016). The professional's belief regarding the harmfulness or effectiveness in general of an out-of-home placement may bear upon his or her decision in an individual case.

Hypothesis 2: Knowledge of parental response to an intervention enhances quality of decision-making

Although various studies have demonstrated limitations in current decision-making practices, there are at the present time no evidence-based procedures for carrying out a diagnostic evaluation of parenting capacities, an essential element when considering whether a child should be removed from home. Several researchers have suggested that the implementation of a more highly structured protocol than is used at present to assess parenting capacity might contribute to a higher quality of decision-making (Harnett, 2007). Such protocol should contain an evaluation of parents' response to a short-term, evidence-based intervention in which relevant parenting behaviour is the main focus and which includes systematic observations of the parent-child interaction. Based on existing theories regarding child development and maltreatment, it can be argued that the focus of such evaluation should be on parental sensitivity

(Cyr & Alink, 2017), a general parenting skill which is defined by adequately perceiving, interpreting, and responding to child signals, which characteristic has been universally identified as important for children's development. Several short-term video-feedback interventions have been proven to effectively increase parental sensitivity (Juffer, Bakermans-Kranenburg, & Van IJzendoorn, 2016). Hence, were parents' response to such an intervention to be evaluated, this would give a significant indication of the likelihood that the parent is able to improve his or her parenting skills and could therefore provide highly relevant, concrete, and objective information to underpin and justify out-of-home placement decisions.

A message for judicial and family law practitioners

Taking into account the complexity of out-of-home placement decisions and the far-reaching, sometimes devastating, impact of these decisions on families, it is essential that practitioners and policymakers alike gain understanding of the different factors affecting these decisions and give consideration to how these decisions can be improved. The results of the present research are of particular relevance to judicial professionals, given their key role in the decision-making process. The insights should trigger a children's judge to reflect critically on his or her mind-set and the influence which this may have on decisions. We further believe that the research is invaluable to family law practitioners, who are thus given the opportunity to identify arguments which reveal the influence of the decision-makers mind-set and thus to challenge decisions which lack an objective and relevant justification.

This study

In the following paragraphs we provide an account of the study which is in the completion stages in the Netherlands into the influences which bear upon professional decision-making regarding out-of-home-placements of children. The objectives were to investigate (1) whether

the individual characteristics – especially the beliefs - of decision-makers influence their decisions regarding out-of-home placements, and (2) whether the decisions of different professionals regarding an out-of-home placement converge to a greater degree when those decision-makers are provided with an evaluation of parents' response to an intervention, for which convergence would be an indication for improved quality of decisions. The investigation was conceived and conducted through inter-disciplinary collaboration of researchers at Leiden University and the VU University Amsterdam. A parallel study is currently being conducted by a team in Scotland.

Method

A total of 144 participants were recruited for the study: 25 children's court judges, 34 child welfare professionals (social workers and officers from the Child Protection Board), 43 Master students in Child Law, and 42 Master students in Education and Child Studies. Having obtained approval for the study from the Dutch National Board of Child Protection and the National Board of Justice, the two groups of professionals (judges on the one hand and child welfare professionals on the other hand) were approached by an informative e-mail, in reaction to which interested professionals contacted the researchers. Master students were recruited through short presentations and contacted the researchers by e-mail if they were interested in participating.

Research appointments took place at the professional's office or home, or, for Master students, at the university. Participants were asked to read and evaluate four different vignettes, being descriptions of a realistic situation in a particular case in which the question whether out-of-home placement was needed arose. Two of these vignettes contained only the information as is presently supplied to courts and child welfare professionals in the Netherlands, and two vignettes were supplemented with a paragraph consisting of a (fictional) description of parents' response to a video-feedback intervention that was aimed at enhancing parental sensitivity.

Some of these descriptions were positive regarding parent's response (i.e., the parent increased in sensitivity following the intervention), while other descriptions were negative regarding parent's response (i.e., the parent did not increase in sensitivity following the intervention). Participants were asked to think aloud while evaluating the vignettes and to indicate for each vignette whether or not they would decide to place the child out of home. Moreover, they filled out a questionnaire that concerned whether they believed that people and more specifically parents have the capacity to change their behaviour, their opinion about out-of-home placements in general and their background characteristics such as their work experience and professional background. Ethical approval was obtained by the Ethical Review Boards of Education and Child studies at Leiden University and the ethics committee for Legal and Criminological research at VU University.

Attitudes and mind-set of professionals

The results show that some, but not all, individual characteristics bear upon the professional's decision regarding out-of-home placement.

- Professionals who believe that parents do not have the capacity to improve their parenting skills (fixed mind-set) decided more often in favour of out-of-home placement than professionals who believed that parents do have the capacity to improve their parenting-skills (flexible mind-set).
- The belief that parents were not able to improve their parenting skills was more prevalent among children's court judges than among child welfare professionals.
- Moreover, professionals who considered an out-of-home placement to be less harmful to children in general were more inclined to place children out-of-home than professionals who considered an out-of-home placement to be more harmful.

- Work experience, professional background, and the professional's view of the effectiveness of an out-of-home placement did not bear upon their decisions.

Quality of decision-making

Regarding the part of the study which examined the degree of convergence between the decisions of the different professionals and students when deciding on an out-of-home placement, it was found that the description of parents' response to a video-feedback intervention increased professional agreement in certain circumstances.

- When we looked specifically at a selection of vignettes which reflected cases that were perceived as highly controversial, adding the description of parents' response to a video-feedback intervention led to more convergence among both professionals and students.
- Moreover, we found different effects for descriptions of positive parental response to the intervention (i.e., describing that the parent improved in terms of sensitivity following the intervention) and for descriptions of a negative parental response (i.e., describing that the parent did not improve sufficiently in terms of sensitivity following the intervention):
 - For vignettes which included a positive description, both professionals and students converged to a greater degree in their decisions, than for vignettes which did not include a description of parents' response to an intervention.
 - For the vignettes which included a negative description, different effects were found for professionals than for Master students. Professionals (children's court judges as well as child welfare professionals) did not converge to a greater degree in their decisions when they evaluated a vignette with a negative description than when they evaluated a vignette not including a description. Contrariwise, Master students did converge more in their decisions when they

evaluated a vignette with a negative description than when they evaluated a vignette not including a description.

Towards more objective decision-making

In the first part of this study it was shown that professionals with a fixed mind-set are more inclined to place children out of home than professionals with a more flexible belief regarding parents' capacity to change. Children's court judges more often have such a belief than child welfare professionals. Furthermore, professionals who consider out-of-home placements to be harmful are less likely to decide for an out-of-home placement. These results show that at least some individual characteristics of professionals affect their decision-making. As the factors mentioned are highly subjective and moreover sub-conscious, this finding does not bode well for the objectivity of decision-making and is therefore a cause for concern. Contrariwise, we regard as positive the finding that work experience, professional background, and decision-makers' beliefs regarding the effectiveness of out-of-home placement did not influence the decisions. In the second part of this study, it was found that decision-makers, when provided with a description of parents' response to an intervention, generally converged more in their decisions regarding out-of-home placements than when they were not provided with such description. More specifically, adding a description of parents' response to an intervention increased agreement among decision-makers when it concerned a controversial case or when the description was positive regarding parents' response to the intervention. When the description was negative regarding parents' response to the intervention, Master students converged more in their decisions, while for professionals this did not make a difference. These findings suggest that the subjectivity of decisions may be decreased by adding information regarding parents' capacity to improve their parenting skills to child protection case reports.

Several limitations of the current study should be noted. This study used vignettes in which anonymized and abbreviated child protection cases were described. Participants were asked to evaluate these vignettes individually, without the opportunity of requesting more information or discussing the case with other professionals. This absence of consultation compromises the extent to which the vignettes represent the actual decision-making practices in the Netherlands. However the vignettes were based on existing child protection cases and a panel of professionals was asked to evaluate the representativeness of the vignettes for the information they would normally receive, which meant that the vignettes were adapted to resemble practice as much as possible. Lastly, the individual factors of professionals were only assessed with questionnaires, which practice might mean the results are biased based due to a risk that the professionals may have filled in answers which they consider to be socially desirable.

Judges and family law practitioners be aware

All in all, the results of this study imply that judicial and child welfare professionals need to become aware of implicit personal factors which bear upon – and reduce the objectivity of – their decision-making. Family law practitioners need to become aware of the factors as well, in order to prepare themselves to question inadequate reasoning and apply appropriate legal remedies. Further research is needed to explore how the influences identified in this study can be decreased. The fact that including the description of parents' response to an intervention generally increased convergence of decision-making between professionals indicates that the quality of out-of-home placement decisions may be enhanced by providing decision-makers with concrete information about the extent to which parents are able to improve their parenting skills. The increase in convergence among decision-makers suggests that this information helps them to make a more objective decision. Although more (clinical) investigations in this area are

required, the results of this study may ultimately offer a way to make Lady Justice's blindfold provide a better safeguard against unintended bias and partiality than is presently the case.