Constructing children and young people: critically reflecting on ‘best interests’

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Acknowledgement of Country
What we will consider today:

- How we construct children and young people
- How we construct children and young people’s ‘best interests’ and some reflections from research
- What informs our understandings of the above in assessment processes
But first, some thoughts on ‘assessment…’

Assessment as science, or art?

“…assessment has to partake of scientific, theoretical, artistic, ethical and practical elements – something which has long been recognised by practitioners and regarded as traditional in social work and all the helping professions.”

(Clifford, 1998: 233; in Parker & Bradley, 2010: 4)
In pairs, briefly discuss:

How do you define:
• A child?
• A young person?

Where do your definitions come from?
Campbell (2008, p. 241) suggests that how we construct children determines when, how, and even if we will work with them.
Children and childhood: social concepts

Childhood is both a legal and a social concept, and perceptions of it are influenced by our values, social relationships and our understanding of what may constitute knowledge and experience (Australian Law Reform Commission, 1997, S. 3.4; Bagshaw, Quinn & Schmidt, 2006: 45).
Legal/psychological constructs of the child
(McGillivray, 1997, p. 14)

- Criminal offender
- Victim
- Witness
- Object in custody dispute
- Rights-bearer
- Needs-bundle

Constructions of children

Mutually exclusive categories

Law/psychology hybrid concepts
Children’s rights and interests: UNCRC

United Nations Convention on the Rights of the Child (UNCRC) (1989) Contains provisions such as:

• Any action concerning a child should take into account the best interests of that child (Article 3)
• A child has the right to express an opinion and have that opinion taken into account in any matter or procedure affecting them. In particular, a child has the right to be heard in any judicial or administrative proceeding affecting them (Article 12)
• A State has an obligation to protect children from all forms of maltreatment (Article 19)
‘Best interests’ in legislation

1. In making a decision under this Act in relation to a particular child or young person, the decision-maker must regard the **best interests of the child or young person** as the paramount consideration.

*Children and Young People Act (2008) ACT, Chapter 1, S. 8(1)*
‘Best interests’ in legislation

6. The objects of this Act are to..

(e) Regulate the use of restrictive practices by a provider in relation to a person in a way that –

(i) Is consistent with the person’s human rights; and

(ii) Safeguards the person and others from harm; and

(iii) Maximises the opportunity for positive outcomes and aims to reduce or eliminate the need for use of restrictive practices…

*Senior Practitioner Act (2018)* ACT, Part 2, S. 6(e)
What else influences our constructions of children and their ‘best interests’?

- Professional / disciplinary background
- Training
- Professional ethics & codes of practice
- Personal values and life experience
- Cultural background
- Prior experience with children/young people
- Organisational approach, policy, procedures etc.
- Team members and other colleagues’ approaches
- ???
Assessment for child inclusion in family dispute resolution (Wheeler, 2019)

Child inclusive practice (CIP) process:

• One-off meeting between child and a trained Child Consultant (with written permission from both parents and assessment by workers that CIP is appropriate*)

• Child Consultant summarises feedback from the child, and delivers this to parents in a joint session

• Parents continue with mediation, hopefully with the ‘voice of the child’ informing their agreements around parenting

*Very little research has been undertaken around how workers assess for the suitability of child inclusion*
Assessment for child inclusion in family dispute resolution (Wheeler, 2019)

Child inclusive practice (CIP) assessment framework: in the absence of higher-level organisational directives, workers considered:

1. **Age of the child** (5 years and older)

2. **Need** (children’s behavioural issues, parents ‘at a loss’ about children’s experiences, parents have very different opinions about children’s experiences/preferences, long gap in parent/child contact)

3. **Feasibility/practicality** (resource intensity, costs)

4. **Likely effectiveness** (weighing risks and benefits, the likelihood parents would be able to ‘hear’ their children & incorporate feedback from the Child Consultant)
Assessment for child inclusion in family dispute resolution (Wheeler, 2019)

Participants’ ethical concerns with CIP practices:

• Parental permission requirement
• Parental reflective capacity as a prerequisite for child inclusion
• ‘Pre-loading’ feedback (‘your child does not like your conflict’)
• Use of child inclusion as an ‘impasse-breaker’
• Child-focused approach (some saw this as insufficient)
• Lack of organisational criteria for child inclusion
• Lack of criteria/screening for child inclusion in cases of domestic violence
• Lack of information on the efficacy of child inclusion, including a lack of follow-up with children
Keddell makes the poignant point that reliance on children’s ‘best interests’ to guide decision making requires workers to ‘reference social norms and make normative decisions’, despite the many legitimate and competing ways of interpreting these interests (2017: 327).
(One) issue with ‘best interests’

We are not passive receivers, but rather **active constructors** of practical concepts like children’s ‘needs’ and ‘interests.’

We need to deeply know our own sociocultural lenses AND be able to critique dominant discourses and constructions of children, young people, and what is perceived to be (and not to be) in their interests.
Constructing children

• “Care / protection” perspective vs. “Participation / rights” perspective (Eriksson & Nasman, 2008: 265)

• Children’s rights to provision, protection and participation are not mutually exclusive, and must be considered in relation to one another (see Eriksson & Nasman, 2008: 271)
Social work and social constructionist-informed approaches to assessment

• Assessment as ongoing, dynamic (not a ‘one-off’)
• Assessment as non-pathologising – focus on strengths as opposed to ‘problems’
• Assessor as non-expert, but rather partner/collaborator with service user and family/carers/friends/community
• Full participation of the service user
• Assessment that attends to socio-cultural location and society’s role in individual and family experiences of ‘health’ and oppression (Morley, 2003b)
• Assessment as a construction (and reconstruction) of meanings – ‘needs’, ‘wants’, ‘best interests’
The importance of research and evaluation

“…we’re not hearing them and we’re not accessing them in the numbers that we need to, ‘cause we’re only really accessing children’s voices in very small numbers in quite difficult cases and we really need a much bigger pool of information, and then we would maybe do better.”

I would love to hear from you:

- What knowledge would be useful to you in this space, that might be achieved by research?
- Please feel free to contact me with any thoughts or ideas: amelia.wheeler@acu.edu.au
References:

- *Children and Young People Act (2008)* ACT, Chapter 1, S. 8(1)
- *Senior Practitioner Act (2018)* ACT, Part 2, S. 6(e)