

Genealogies of child abuse

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Abstract

Legislative changes to child protection in Victoria have introduced new procedures for managing the state's child protection services. Among its objectives, the legislation seeks to promote stable long-term care for children through timely and more efficient family interventions. This paper places these events in the historical context of recurring shifts in how the problem of child abuse is conceived and acted upon. It draws particular attention to new forms of power in relation to the policing of children and families, which promote individual responsibility for the underlying social arrangements affecting child maltreatment and family violence.

Key words: Child Abuse, Genealogy, Government, Risk, Expertise, Family

Introduction

As in many other parts of the world, Australia appears to be experiencing an epidemic of child abuse. The number of child protection notifications increased nationally by more than 50 percent during the last five years, from 198,355 in 2002–03 to 309,517 in 2006–07. Aggregate numbers of children in out-of-home care throughout Australia rose from 18,880 children in 2002 to 25,454 in 2006, an increase of 35 percent (Australian Institute of Health and Welfare 2007:xi). The rate of Aboriginal and Torres Strait Islander children in out-of-home care was over seven times the rate of non-Indigenous children (p.xi). Published statistics on notifications and substantiations of child abuse and out-of-home care in Australia require careful analysis because each state and territory has its own legislation, policies and practices in relation to child protection. New South Wales, Queensland, Australian Capital Territory and the Northern Territory all record significant increases in out-of-home care, a doubling over 10 years to 2006, and in the case of NT a four-fold increase.

Policy analysts regularly note the way in which approaches to managing child protection have shifted over time, partly in response to changing definitions of child abuse. Cashmore (2001) traced the move from the discovery of ‘battered babies’ in the 1960s and the exposure of child sexual assault in the 1990s, arguing that ever increasing numbers of children were being reported to State authorities because of increased community awareness of child maltreatment and the introduction of mandatory reporting. Also, the definition of abuse has broadened to include physical abuse of children of all ages, neglect, emotional abuse and sexual abuse, and more recently the effects on children's social and emotional development of exposure to domestic violence (Cashmore 2001:1). In this view, increased numbers of cases of abuse appearing in published statistics reflect a gradual uncovering of the incidence of abuse on the one hand, and an increase in the kinds of behaviours or circumstances that are counted as abuse on the other. More recently, managing child protection under programs broadly described as ‘risk management’ has led to a significant expansion in the numbers of children being placed on protection orders or brought into out-of-home care.

This paper argues that published statistics represent not just an expansion of events categorised as child abuse, but are also a response and a condition of possibility for particular practices of governing children and families. The paper presents an overview of 20th century management of problem children through philanthropic, medical and legal knowledges, focusing on the state of Victoria, giving some historical context to the appearance of a crisis of child abuse reported in official statistics in Australia. I wish to argue that recent shifts in statutory and administrative arrangements for child protection have introduced new forms of power in relation to families, in the name of ‘community’, which shifts the locus of governance onto

families while at the same time returning agency for child vulnerability to family members themselves.

Systems of knowledge

(a) Philanthropy and police

In the late 19th century, networks between philanthropy and the police had been established through the more general policing of destitute, disorderly and dissolute adult population, and these networks were deployed in cases of problem children. Children were sent to the Victorian Children's Aid Society Home, which was effectively an annex of police work to the extent that by 1904 the Chief Commissioner of Police paid the yearly rent of the Society's premises (Victorian Children's Aid Society [VCAS] 1904). From the earliest reports of the Society in 1893, the philanthropist became a witness speaking for the child in the court (The Argus; VCAS November 1893-September 1894). She bore special knowledge of the child's background, collected from neighbours and other informants, including knowledge of the father and mother's character and the state of the house. As the keeper of this knowledge, she also helped shape decisions about the disposition of children.

The Victorian *Children's Court Act* (1906) required that these previously informal arrangements for providing specialist knowledge of the child be transferred from philanthropy to newly appointed probation officers, who henceforth were to 'inquire and furnish the court with information as to the child's habits, conduct and mode of living' (Victoria 1906). Philanthropy considered the home, particularly a home in the countryside, as a kind of ready-made mechanism for the reform of habit. Domestic routine was seen as a kind of processing machine, preventing those with bad habits

from becoming 'habitual'. Children placed in country homes away from their evil surroundings and under judicious supervision would be 'treated as members of the family, thus changing their whole course of life, forgetting their old names and taking the names of their foster-parents (VCASR 1897-1908: Report for Year Ending 30 Sept. 1900). The evidence suggests that a network of relations between police, penal and reform institutions and proto-social workers was established well before the appearance of the Children's Court, that strong continuity existed between adult and juvenile administration of the habitual criminal, and that government and philanthropy (justice administration and child welfare) had clear lines of connection rather than separation. These networks were the significant precondition for the collection of social information and the calculation of the pathological family. But the object of knowledge was the child and its habits, collected as part of a strategy to manage the risk of the neglected child becoming the criminal adult. Agencies responsible for the collection of this knowledge were the police and the welfare officer (philanthropist and then probation officer) whose activities took the form of deliberate social prophylactics aimed at securing the child from a criminal future.

(b) The doctor in the clinic

One of the critical elements of the appearance of child abuse as a concept involved its characterisation as a medical pathology, as Hacking (1991) has convincingly demonstrated in the North American context. In Australia, the doctor appeared formally in the field of child welfare with the establishment of a Children's Court Clinic during the 1940s, which advised a magistrate about the 'conduct and habits' of a child coming before the court for being a neglected child, or on criminal charges. In Victoria, the Clinic employed psychologists, social workers, and a nurse, headed by a

psychiatrist, and worked closely with probation officers and related officials. Any case or incident may be referred to the Clinic for investigation - the psychiatrist would examine the child and interview the parents, the psychologist would most likely test the child with one of the new intelligence tests, while the social worker would visit the home and report back on the parents and living conditions at home. The psychiatrist would prepare a report on all this and submit a recommendation for disposal of the case to the court. Often what was at stake was whether the child would be returned home, or sent to an institution or into foster care; or in the case of a child with a criminal offence, whether the child was put on probation, or was committed to a reformatory if the charge was proven. These procedures applied to both neglected and offending children and were prosecuted in the same court. The doctor's role was an extension of the judicial apparatus, providing opinion to the court on how the child was best dealt with. But there is also good evidence drawn from court records in the 1940s showing that the doctor acted as an adjunct to the prosecution, interviewing the child, cross-checking material brought by the social worker, and making decisions on the 'character' of the child. It can be argued that he served less as a 'man of science' than as an advisor on aspects of the character and culpability of the child (McCallum and Laurence 2007).

In the 1950s and 60s, a new category of person found itself attached to the hospital in the form of the 'battered baby'. The landmark paper by Colorado paediatricians under Kempe began what the Australian paediatrician Kim Oates (1985:44) described as '... a period of awareness of child abuse', which he wanted to distinguish from older forms of child cruelty and infanticide. The American team examined X-rays showing previously unexplained fractures, and they used the deliberately emotive term baby-battering to draw wider attention to a problem that paediatricians

considered much more widespread that their hospital experience led them to believe. Picton and Boss (1981:116) argued that in Australia baby battering gave way to the more general term 'child abuse' because it was able to include older children, and a broader range of situations in which 'children are cruelly treated, sexually injured, or neglected, or exploited to their detriment', not only by their parents but by others who have responsibility for them.

While this kind of enquiry continued to emphasise individual pathologies, the given causes of failure to thrive were poverty, overcrowding, unemployment, illegitimacy and seriously disturbed marital relationships. Other studies cited family separation, unemployment, financial difficulties and poor communication between parents. There was little medical evidence evinced to suggest that parents were 'sick'. In their study of medical records in the Royal Alexandra Hospital in Sydney in 1967-9, Oates and Yu (1971) presented a socio-economic status evaluation showing that children with failure to thrive came from large, unstable, poorly educated, low income families. They often changed addresses, the mothers were married in late teenage years, bottle-fed their children, and it was usually the last born that failed to thrive (Oates and Yu 1971:202). The response to these adverse social conditions was for the physician to provide family support and counselling, and to provide a 'community' solution with the aid of social workers (Oates 1982). Nearly all the families came from low socio-economic groups, but as Oates (1985:21) explained, none of the studies used comparison groups, so it was '... not possible to evaluate the effect of social class on this condition'. In the few 'case-control' studies involving stable, intact families with favourable economic circumstances, mothers of infants with failure to thrive tended to score lower on the vocabulary test of the Stanford-Binet intelligence scale. Concluding his review of family studies, Oates (1985) reported no evidence of

psychiatric disorders in the children, although some exhibited mild behavioural disorders. But despite all the reservations about concepts like maternal deprivation and the absence of pathology in the examination of the children, the American Diagnostic and Statistical Manual (3rd. Edition) in 1980 designated failure to thrive as a ‘reactive attachment disorder of infancy’ which once again emphasised the maternal-infant bonding relationship (American Psychiatric Association, 1980).

Forensic investigation to risk management

In the policy discussion preceding preparation of the Bill, the Victorian *Children, Youth and Families Act* (2005) would reflect international trends in responding to the needs of children and families. Australia, the UK and North America had earlier adopted a ‘regulatory’ child protection orientation to child abuse, as distinct from the family service orientation long-practiced in countries like Sweden, Germany, Belgium and the Netherlands. In the lead-up to the new Bill, policy analysis claimed that the family services approach provided easier access to a wider range of services and assistance than the child protection systems (VDHS 2003: vii). ‘Family service systems’ also placed more emphasis on working voluntarily with parents over longer periods, compared with the earlier, more coercive approach. A regulatory approach worked well when responding to episodes of significant harm but was less effective in dealing with more chronic cases of ongoing neglect. In addition, recent approaches to regulatory reform stressed the need for a spectrum of responses to families’ needs, while retaining the capacity to apply ‘tough sanctions’. They need to work in partnership with other agencies, and they work best when people see the system as procedurally fair and treat people with respect. Importantly, however,

child protection regulation should build on, or interact more with, parents’ own ‘private regulation’, or self-regulation. Government regulation should

respond to how effectively private regulation is working *and can be encouraged to work better* (VDHS 2003: viii emphasis in original).

These strategies would be supported by an expanded community infrastructure. In the DHS (2003) *Final Report of the Child Protection Outcomes Project*, community infrastructure is described as Community Child and Family Support Centres in local areas, locally coordinated ‘community based’ services including child protection, family support, health, police and schools, and the development of ‘intermediate level responses that allow for dialogue and deliberation with families outside of formal legal processes’ (VDHS 2003: xiv).

Many aspects of criticism of recent policy have been directed at the Victorian legislation. The most challenging of these criticisms relate to the increasingly interventionist, ‘fast-track’ approach to permanent removal, and claims of inadequate safeguards or court scrutiny of the procedures for placing children in care. Dutta (2005) recorded many of the concerns in interviews with members of the Victorian Bar and through a detailed examination of the *Act*. They have to do with the apparent large increases in child interventions, making it easier to remove children and place them in permanent care. Permanent care is a strong priority rather than reunification, a clear policy reversal from the 1980s. Permanent care orders can be made as soon as six months after a child has been removed, much the same as adoption orders. There are concerns that legal advice is rarely provided in circumstances where child care agreements are sought by an agency, and also the possibility that minors, non-English speakers and people with intellectual disabilities can sign agreements (Dutta 2005: 10).

Summary and conclusions

This paper suggests that while an expanding definition of child abuse can be held to account for increased numbers, these counting devices and knowledges of the problem child and family relate historically to the shifting requirements of an administration. While there is evidence that expanded definitions led to a wider net of abusive behaviours and conditions, there is equally good evidence that a change of protection management practices has brought many more children under investigation. For example, a welfare administration's demand to 'know in order to protect' has produced massive surges in the numbers of children 'known to the agency'. In recent times, the statistical appearance of child abuse would occur in 20 percent of all children, a circumstance which policy-makers acknowledged made the problem of childhood ungovernable under existing forms of regulation - the problem of 'false positives' (O'Malley 2005:xii). Moreover, at least one jurisdiction has acknowledged that risk management approaches involving mandatory reporting could be improved by raising the bar on reportable events (Department of Community Services 2008).

It is possible, then, that calculating parental and community responsibility engages a coercive and threatening approach that signals permanent removal of children in the first instance, with the onus placed on parents to provide evidence that they are able to safely manage their children. In this sense the present workings of child protection may take on the appearance of much older techniques evident in the late 19th century networks between police and philanthropy.

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