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Child Friendly Justice: International Obligations and the Challenges of Interagency Collaboration

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Introduction

The first aim of this chapter is to introduce the method of interdisciplinary child rights justice systems analysis. The method aims to identify international principles and the main challenges in their practical application when handling cases concerning the sexual abuse of children. The method offers a way to create a holistic overview of the complicated collaboration between the different agencies required to ensure child-friendly justice. As such, it should be applicable in different countries and jurisdictions. The second aim of this chapter is to use the method to critically analyse and discuss the effectiveness of Barnahus in Iceland in ensuring child-friendly justice.

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The UN Convention on the Rights of the Child from 1989 (CRC) transformed the way we view children. It provides the standards necessary to protect the vulnerable status of children and to ensure their place as active members of society (Friðriksdóttir 2015). Article 3's concept of the child's best interests is aimed at ensuring both the full and effective enjoyment of all the rights recognised in the convention and the holistic development of the child. It places the obligation on member states to ensure that all judicial and administrative decisions as well as policies and legislation concerning children demonstrate that the child's best interests have been a primary consideration. Article 3 links directly to art. 12 on the right to be heard, as an assessment of a child's best interests must include respect for the child's right to express their views freely and due weight given to said views in all matters affecting the child (CRC/C/GC/12, 18; CRC/C/GC/14, 3).

Child sexual abuse is a particularly complex issue involving many different agencies. The Barnahus in Iceland has from the beginning played a major role in coordinating the complicated patterns of procedures that govern the process of dealing with a case concerning child sexual abuse. Today, Barnahus in Iceland and other countries play a similar role for other forms of abuse (see Chap. 1). The concept or model of Barnahus has thus been an inspiration for European instruments and standard setting, promoting child-friendly justice (Council of Europe 2010; Guðbrandsson 2011), founded on the principles enshrined in the CRC. Ensuring the effectiveness of the Barnahus model, however, requires an ongoing process of strengthening and furthering integrated knowledge and expertise on the workings of the justice system as a whole.

It has long been recognised that adapting justice to children is a challenge and difficulties encountered in implementing international principles are common (Council of Europe 2010, 37). In the wake of Iceland's 2008 ratification of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, signed in Lanzarote in 2007 (CETS No. 201, the Lanzarote Convention), Iceland established a project called Raising awareness about sexual violence against children. The activities have since been expanded to also cover emotional and physical violence against children. Raising awareness was a collaborative project between the Ministry of the Interior, the Ministry of Education, Science and Culture and the Ministry of Welfare.

The purview of Raising awareness falls under Chap. 2 of the Lanzarote Convention which stipulates the responsibility of authorities to make necessary arrangements to ensure education and preventive measures in the field. It was clear at the outset that much was missing as regards accessible informative materials dealing with violence, and one of the main objectives of Raising awareness has been responsibility for the production of specialised educational material about violence against children (Ministry of the Interior, Ministry of Education, Science and Culture and Ministry of Welfare 2014, 1). Raising awareness commissioned the authors of this chapter, in collaboration with the University of Iceland's Ármann Snævarr Research Institute on Family Affairs, to undertake a project aimed at furthering practical knowledge and the implementation of international instruments within justice systems when dealing with child sexual abuse. The project resulted in new professional guidelines: *Child sexual abuse and the justice system—procedures and due process for children* (Fridriksdóttir and Haugen 2014). In preparing the guidelines, a method of analysis for interdisciplinary child rights justice systems was developed. The method and its application provide tools to identify and understand the complex interplay between different agencies involved with child sexual abuse and to identify strengths and weaknesses.

As mentioned above, the first aim of this chapter is to describe the development and explain the different elements of *the method of interdisciplinary child rights justice systems analysis*. The second aim is, by applying the method, to formally identify the role of Barnahus in Iceland within justice systems and to offer a critical discussion of the effectiveness of Barnahus in ensuring child-friendly justice. This chapter takes an interdisciplinary legal and social work perspective, with a focus on the rights of the child.

The Method of Interdisciplinary Child Rights Justice Systems Analysis¹

Aim

The overall aim of developing the method of analysis for interdisciplinary child rights justice systems is to identify challenges in bridging the gap between international principles and their practical application.

The method provides different professions and agencies within justice systems with the opportunity to take a critical look at the complex patterns of procedures in dealing with child sexual abuse from a child rights perspective (Friðriksdóttir and Haugen 2014).

The Method Requires

1. analysis of the *main international instruments*, i.e. the CRC, the Lanzarote Convention and the Guidelines of the Council of Europe on child-friendly justice, with the aim of identifying the main principles governing the processes of handling child sexual abuse cases,
2. a step-by-step descriptive analysis of the main obligations of each agency within the justice systems in a broad sense, including Barnahus, and the agency collaboration, in order to provide an illustrative holistic overview,
3. an analysis of the views and experiences of major stakeholders, with the aim of identifying systemic weaknesses in practice,
4. a step-by-step normative analysis of how the aforementioned main principles of international instruments should be reflected in processes and procedures within the justice systems with the aim of identifying tensions and challenges and facilitating better practices.

An integral part of using this type of analysis to facilitate better practices is systematic follow-up through multidisciplinary and multiprofessional seminars with an emphasis on dynamic interagency interaction.

Data

In developing the method, the authors used different types of data collected in 2014. The following correlates with the requirements mentioned above.

1. Identification of the main principles requires a careful reading, analysis and categorisation of international and regional instruments.
2. The descriptive analysis of domestic processes and procedures relies on explanations and interpretation of domestic laws and regulations for the responsibility of different agencies. All police districts and

- directors of child welfare services (CWS) in Iceland were contacted and offered the opportunity to present written supplementary information on work methods and comments they regarded as important.
3. The analysis of views and the experiences of major stakeholders rely mainly on semi-structured interviews with 33 key stakeholders and operative personnel using a purposive method (Karlsson and Þórlindsson 2003). Among those interviewed were the Director of the Government Agency for Child Protection in Iceland, the Director of Barnahus, directors and various personnel within CWS from different parts of the country, the Chief of the Metropolitan Police and leaders of the police specialised violence unit, the Prosecutor General and prosecutors from the Office of the Public Prosecutor, the Chairman of the Icelandic Judge's Association, the Chairman of the Judicial Council, the Director of the District Court of Reykjavík, the Director and other paediatricians from the Icelandic Children's Hospital, leaders from the two main Rape and Trauma Centres in Iceland, child advocates and leading academics in the field. At the final stages of developing, the method constructive comments were also gathered at a special seminar for major stakeholders as a focus group.
 4. Finally, the normative analysis relies on the information above and was further supplemented by existing domestic and international research in the field.

It is further worth noting that using the results of the method through the offering systematic education with an emphasis on dynamic interagency interaction can provide an important platform for progressive analytical discussions and continuous improvements.

The Elements of the Analysis of Interdisciplinary Child Rights Justice Systems

International Instruments

One key dimension of the CRC is to safeguard the rights of the child to freedom from violence. Alongside the CRC general principles in art. 2,

3, 6 and 12, art. 39 specifically calls for a system of reporting, referring, intervening and supporting children.

The Lanzarote Convention is the most comprehensive legal instrument to date in the protection of children against sexual abuse. The aim is to adapt child-friendly judicial proceedings and measures to the needs of children. The Convention establishes common criteria to ensure an effective, proportionate and dissuasive punitive system. Chapter 7 in the Convention has detailed provisions covering the initiation of proceedings, investigations and court proceedings, emphasising multiagency response with a focus on where, how and who should interview the child victim.

The guidelines of the Council of Europe on child-friendly justice seek to interpret and build on the CRC and other instruments in order to enhance children's access to treatment and participation in justice in a broad sense (Council of Europe 2010). The guidelines promote and protect the rights to information, representation and the participation of children in judicial and non-judicial proceedings, and give a place and voice to the child in justice at all stages of procedures. They also present good practices and propose practical solutions to remedy legal tensions and inconsistencies. In preparing this document, the Council of Europe organised a direct consultation of children and young people which was the first attempt to directly involve children when drafting a legal instrument. Key themes to emerge included the importance of family, (mis)trust of authority, need for respect and the importance for children and young people of being listened to (Kilkelly 2010; Björgvinsson 2011).

Main Principles Governing the Processes of Handling Child Sexual Abuse Cases

The aforementioned international instruments include both general and more detailed principles and regulations. Through analysis and the classification of the overarching themes that these instruments present, the researchers identified four main principles that are considered pivotal in the process of handling child sexual abuse cases within the justice systems. These main principles are designed to draw our attention to

the specific issues that are most important to child-friendly justice. The principles are intrinsically linked and best illustrated as in Fig. 9.1:

The principle of the *child perspective* is very extensive and as such may be said to encapsulate all aspects of child-friendly justice. Highlighting this as one of the main principles demands a clearer definition of child-centred processes, a focus on what information informs our knowledge of the best interests of the child, including the right to be heard, throughout all and any proceedings within the justice systems. A key element is to challenge our knowledge and perceptions of how a child experiences the judicial processes and how these processes respond to the needs and wishes of the child.

The principle of *safety* focuses specifically on themes such as immediately stopping the abuse, keeping the child secure at all times and reducing negative consequences and the danger of re-victimisation. A key question is how we can identify the elements that increase a child's feeling of insecurity and reduce them in the best possible way.

The principle of *efficiency* places emphasis on information, timely response and continuity. A key question is how to secure a coordinated flow of actions and information about who does what, when and how, which facilitates effective procedures.

The principle of *collaboration* relies on respect, knowledge, mutual understanding and the continuous willingness to adapt and change within a normative framework. A key question is how to identify, recognise and overcome known hindrances to effective collaboration at every level.

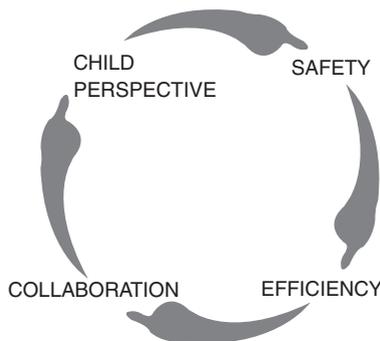


Fig. 9.1 The main principles

It shows Barnahus as a special agency and signifies its involvement in connection with the CWS and the police.

The diagram identifies four distinct steps in the processes deriving from various Icelandic laws and regulations: the first response, the investigation, measures during investigation and measures after investigation. The importance of an illustrative process diagram of this sort is to signal who is mainly responsible for particular actions at any given stage in the complex procedures.

The Views of Major Stakeholders and Focus Group

Interviews with major stakeholders further illuminate the state of knowledge and understandings of different agencies within the justice systems. The interviews provide information on how these agencies interpret their own and each other's roles, rights and obligations, and how they reflect on everyday practice. The input from a focus group provides further critical feedback. The above method thus provides an informative basis for the analysis of strengths and weaknesses.

Tensions and Challenges Within the Justice Systems

The method of analysing interdisciplinary child rights justice systems lastly embodies a normative analysis, taking a more critical look at procedures at each of the steps to identify challenges and tensions. This is done by using the main principles, articulated in Sect. 3.2, to scrutinise and classify themes that emerge from interviews with major stakeholders and comments from the focus group.

Barnahus in Iceland—Developments and Challenges

Critical Analysis

The importance of analysing the method of interdisciplinary child rights justice systems is in offering a systematic holistic overview of the complicated interactions between different agencies within justice systems.

The method also provides a tool to look more in-depth at the role of specific agencies.

The aim here is to use the method to look critically at the role, actions and successes of Barnahus as an integral part of a whole. This first and foremost requires a re-examination of semi-structured interviews with key stakeholders and operative personnel and the comments from the focus group, mentioned in Sect. 2.2. Using the lens of the four main principles of child-friendly justice described in Sect. 3.2 then allows us to identify and analyse themes that reflect both the positive developments and the challenges remaining. The following sections show how the main principles can be used to call attention to and articulate some of the main concerns. Some concerns reflect all of the main principles, while others correlate more strongly with a certain principle. Using the main principles also highlights the often sensitive issues of balancing rights and obligations in specific situations.

Parallel Processes

One of the fundamental ideals behind the model of Barnahus is to facilitate multiagency *collaboration* and *efficiency* considered essential for the successful handling of cases concerning child sexual abuse. Research indicates that this has been successful to some degree (Kaldal et al. 2010; Friðriksdóttir and Haugen 2014).

It is generally accepted that in most cases of suspected child sexual abuse in Iceland, the CWS starts the assessment of the child's safety and living conditions, and the police begin the investigation of the alleged sexual abuse. Our research suggested that the different agencies did not in general have a comprehensive knowledge of the parallel processes and many lacked sufficient knowledge of each other's roles and responsibilities. This may serve to hinder efficiency and necessary collaboration serving the needs of the child.

It is well established in research how lack of knowledge of each other's values and roles and the competing interests of different professions is likely to hinder effective collaboration (Sloper 2004), as well as how shared views and integrated knowledge and working methods provide a

necessary foundation for a successful multiagency collaboration (White and Featherstone 2005).

Set Routines

A closer analysis of work routines raises specific concerns about active *collaboration* and questions as to the balancing of the *child perspective* and *efficiency*. Set routines have evolved to provide a certain amount of efficiency. Set routines involving Barnahus are on the one hand based in essence on a child-centred ideology but on the other hand may hinder the advancement of dynamic collaboration.

Most of the interviewees working directly with cases of child sexual abuse mentioned following a set of routines which, when looked at more closely, had mostly developed over time from the point of view of the agency applying them. The routines were thus mostly developed and adapted to the needs and resources of each agency with a limited account of the roles and responsibility of other agencies. Collaboration was limited to certain preset steps in the procedures, and there was a lack of a dynamic exploration as to how different agencies might cooperate in making sure that decisions served the overall best interests of the child. Other research has also shown how strict statutory guidance and the demands of bureaucracy can reduce the ability of professionals to stay child centred (Munro 2011).

The Focus of Collaboration and the Flow of Information

Our study indicated that the focus of *collaboration* between the agencies within the criminal justice system and the CWS seems to be first and foremost on how to conduct the child investigative interview. The general coordination and exchange of information between agencies raise many questions. Different agencies do not seem to have a mutual understanding of the need to, and positive effects of, sharing information, and lack a thorough understanding of their own or others sets of rules governing the exchange of information.

From the *child's perspective*, a shared understanding of the importance of multiagency collaboration in each case is vital to a better assessment of the needs of the child at every step in the procedures. The issue of *safety* is also of particular concern in this respect. Coordinating measures during an investigation, such as arrests, detainment and the removal of a child from the home, are of vital importance. Continuity in the flow of information to the child and the family also raises questions. There seems to be no extensive mutual understanding of who is responsible for giving the child and the family all the necessary and relevant information on all processes and procedures in a consistent and timely manner. One special issue here is the fact that the role of the child's legal representative is limited to the criminal procedure.

Long Distances

The location of Barnahus in Iceland raises concerns related to *all the main principles*. The fact that there is only one Barnahus in Iceland, situated in the capital Reykjavik, requires a careful balancing of the principles of *safety* and *efficiency* and the *perspective of children* living in other parts of the country. Questions were raised as to the existence of a uniform one-door policy in practice. This is also reflected in research from Norway indicating that the distance from a child's home to a Barnahus prevents the use of Barnahus in some parts of the country (Bakketeig et al. 2012). From the child's perspective, having to travel to Reykjavik, accompanied by parents (non-abusive), a child welfare caseworker, a policeman and a judge, can be overwhelming and stressful. This is also a safety issue, as it may challenge the child's right to privacy. The travelling furthermore takes time, effort and money, which may challenge the principle of efficiency. The question was raised whether this could be avoided by technical means, such as having the child travel to Reykjavik while others gathered in a courtroom using an electronic meeting system. This may provide a compromise, but the disadvantage is the loss of proximity in consultation and *collaboration*.

Child Explorative Interviews

One of the core elements of Barnahus is the interview with the child, strongly reflecting the *child perspective* and the principle of *safety*. The concept of child explorative interviews at Barnahus, solely for CWS in ambiguous cases, is a special feature of Barnahus in Iceland. Our study showed that there is an overall agreement that child explorative interviews are an important option from the child perspective and the principle of safety. It can facilitate optimal expression at an early stage and have a fundamental impact on further procedures. Findings from numerous studies have shown that more reliable information is gathered using a structured form for interviewing, like that used in Barnahus, the NICHD Protocol for Investigative Interviewers of Alleged Sexual Abuse Victims, which emphasises open questions (Lamb et al. 2007).

Child Investigative Interviews

All agencies involved with child sexual abuse cases in Iceland have been aware of a tension surrounding the child investigative interview, first and foremost regarding where, how and who conducts the interviews. Many interviewees and some members of the focus group complained that this tension has not reflected a general understanding of the fundamental ideology of the one-door policy from the *child perspective* and how this has created uncertainties, hindering *efficiency*.

In Iceland, the child investigative interview is under the auspices of a district court judge if the child is under 15 years, and the judges have the prerogative to choose where, how and who interviews the child. Judges have not been in agreement about choosing Barnahus over the years, and some have preferred using special facilities at courthouses. In 2015, the legislator adopted law no. 778/2015, amending the Code on criminal procedure no. 88/2008, requiring judges as a general rule to use a special facility for interviewing a child under the age of 15 years. It is worth noting that our data indicate that more and more judges used Barnahus in the year prior to the change in legislation.

When the child is over 15 years, the child investigative interview is under the auspices of the police. Our data show that the police have been strongly inclined to use police stations for these interviews without evaluating the needs or wishes of each child in question.

The child investigative interview is one of the most sensitive and important parts of the investigation, as the aim is to facilitate disclosure and to learn as much about the abuse as possible. The Guidelines of the Council of Europe on child-friendly justice highlight the importance of both methods and surroundings providing safe spaces for children (Council of Europe 2010).

Mutual Preparation and Follow-up After Interviews

Looking more closely at the child investigative interviews, our data raise particular concerns about *collaboration* in the preparation and immediate follow-up. Initially, when Barnahus started in Iceland, the intention was that the professionals involved had a meeting before the child investigative interview was conducted in order to coordinate their work as well as facilitating a mutual understanding of the case. This is also an integral part of the work methods in Barnahus in Sweden (samrådsmöten), and a similar procedure is present in a new regulation for the police and CWS in Oslo (Kaldal et al. 2010; Oslo Politidistrikt og Barneverntjenesten i Oslo 2015).

Our data indicate that, in practice today in Iceland, there is no strong focus on mutual preparation for the interview or a mutual understanding of the results and the way forward. More importantly, there is a lack of general understanding about who, how and where the child and the family are given necessary information in preparation for the interview. The working methods of CWS and child legal representatives vary, and in many instances, the child was brought into the CWS office and to the office of the legal representative before coming to Barnahus.

Participation of the Child

The concept of the dynamic participation of the child in all processes and procedures raises a critical question from the *child perspective*.

There is no doubt about the harmful effects of repetitive and unstructured interviews with children by many professionals in different locations, and that the concept of multiagency child investigative interviews securing successful disclosure can be the key to unlocking abuse.

The questions concern the fact that the child has a right, and often a need and a wish, to express their views on other elements of the process than the abuse itself. Our study, supported by further research, suggests a strong need for a more coherent strategy on who is responsible for securing the right of the child to participate and who provides the necessary assistance enabling the child to participate on all levels throughout the whole process from start to finish (Friðriksdóttir 2015).

Criminal Investigation and/or the Safety and Well-Being of the Child

Another crucial element from the *child perspective* and the principle of *safety* is the focus of justice system interventions. Our data clearly show that the focus on the criminal investigation of the alleged sexual abuse becomes strong during the investigation phase, threatening to overshadow other important child welfare case matters concerning the situation, care and well-being of the child.

Numerous studies have shown that a child who is sexually abused is also likely to experience other forms of abuse and/or neglect, and a careful assessment evaluating the child's overall need for safety and support is therefore essential (Devilley et al. 2008; Søftestad et al. 2012; Søftestad 2013).

Apart from the child investigative interview, Barnahus offers consultation and therapy for the child. Specialised therapy is of great importance to the child's social and psychological health and future well-being. There has also been a growing awareness and acceptance within the criminal justice agencies of the importance of evidence given by a therapeutic specialist. The strong focus on the services offered by Barnahus can run the risk of obscuring other important elements. Our data show that when a case is under criminal investigation, the CWS investigation is often confined to referring the case to Barnahus without

further action. This runs the risk that the CWS investigation may not result in a comprehensive report followed by a plan for handling the case as required by law, giving sufficient attention to all the elements of the child's situation and needs. Our data thus reveal the same tendencies as noted in Sweden, outlining a focus on the growing juridification in child sexual abuse cases (Johansson 2011).

Conclusion

The first aim of this chapter was to introduce a method for the analysis of interdisciplinary child rights justice systems. Most countries in the world have committed to the challenge of creating and adapting justice systems to successfully handle cases concerning child sexual abuse. Most countries also respect international instruments that require the implementation of the rights of children. The method of analysing interdisciplinary child rights justice systems offers a systematic approach to qualifying, understanding and critically discussing the interwoven processes and procedures at play within justice systems dealing with child sexual abuse. The outlines of the process diagram offer an important tool to illustrate the role and responsibilities of different agencies and should as such be relatively easily adaptable to other jurisdictions. The four main principles embodying the themes most important for child-friendly justice offer a constructive way to critically analyse and hopefully improve each step in the procedures.

The second aim was to look more closely at Barnahus in Iceland and use the method to identify positive developments and remaining tensions and challenges. Our research confirmed, as other domestic research has also shown, that the establishment of Barnahus in Iceland was a radical improvement, strengthening the child perspective and in many aspects furthering safety, efficiency and collaboration (Newton et al. 2011). Research into the experience of establishing Barnahus in other Nordic Countries revealed the same results (see Bakketeig et al. 2012; Kaldal et al. 2010; Landberg and Svedin 2013; Walsh et al. 2008; Åström and Rejmer 2008). Overall, the situation of child victims in Iceland has thus developed in accordance with the main principles of international and

regional instruments; however, cases concerning child sexual abuse are sensitive and complicated, and the concept of the best interests of children is dynamic and continuously evolving. The four main principles may seem familiar and self-evident, but bridging the gap between rhetoric and effective implementation is an ongoing challenge. Systematically analysing procedures through the lens of these main principles requires us to think critically about how the ideals of the child perspective, safety, efficiency and collaboration are understood, what knowledge informs their interpretation, and how this influences each and every decision made by the different agencies involved with Barnahus.

To summarise our main results, it is *firstly* important to acknowledge that Barnahus plays a role in connection with other agencies within justice systems as a whole. The aim of Barnahus is not to relieve other agencies of their responsibilities but to offer expert services that enhance and facilitate holistic, child-centred and effective processes in handling abuse cases. Our research indicates that careful consideration must be given to ensure that the focus of the investigative interview with the purpose of gathering evidence for the criminal investigation does not overshadow other child welfare concerns. *Secondly*, our research shows that in order to rise to the challenges of putting principles into practice, we need to strengthen the child perspective by ensuring that children are offered the chance to actively participate in all processes before, during and after the involvement of Barnahus. *Thirdly*, in order to fully realise the ideology of Barnahus, more efforts must be put into cultivating multiagency training and facilitating mutual understanding, respect and dynamic child-centred collaboration.

Notes

1. The authors both have varied experience working within the justice system, i.e. working for the Government Agency for Child Protection in Iceland, where we were both instrumental in setting up and organising Barnahus when it was established in 1998. It has been noted that this may have influenced the research, as there is a tendency to see things from only one point of view if the researcher knows the setting well. We are well

aware of how personal and professional experience can influence research (Taylor and Bogdan 1988) and took great care not to let our own perspective get in the way of looking at the data in an objective manner.

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