

Theoretical Perspectives: Conflict Theory versus Ecological and Family Systems Driven Models of Practice

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A variety of decision-making models exist within child welfare and youth justice systems that provide alternatives to Court processes using a variety of names and terms to describe these programs. There is a substantial body of research concerning decision-making processes that offer alternative Court proceedings such as Child Welfare mediation (CW mediation) and alternative dispute resolution (ADR). All Court alternative initiatives tend to be developed based on theoretical approaches rooted in conflict or ecological and family systems theory. The principles developed from these perspectives drive the approach and activities of the programs.

Conflict theory approaches are driven by a belief system that views the offender, in the case of youth justice, or the parents, in child protection instances, to be in conflict with society's standards for appropriate behaviour. As such, the State assumes responsibility for resolving these conflicts on behalf of the individual harmed. These approaches typically involve professionals to facilitate resolutions in disputes between parties in conflict; in youth justice situations, to develop restitution plans, and for children at risk of harm, protection plans for the child. Often these programs involve the child and family, and in youth justice situations, the victim and their supporters as well. Professional mediators or facilitators lead the process to an agreed upon solution or plan.¹

Ecological and family systems driven models are rooted in the belief that the family and their immediate community can understand and assume responsibility for the behaviours of its members. Programs that adopt this approach are driven by the belief that the family, whose shared realities, cultural traditions, knowledge of, and ties with each other, provide the critical context for collective decision-making; in child welfare situations, to develop effective plans to protect a child or youth from harm, and in youth justice situations, to develop restorative plans to hold the young person accountable and reintegrate h/er back into the family and community. From this perspective, the State's role is to support the family's efforts and plans.

Family Group Conference (FGC) programs based on the New Zealand model differ substantially from Court alternative programs such as CW mediation and ADR approaches. Despite the focus on Court alternative processes, CW mediation and ADR models are, none the less, rooted in conflict theory in which the 'offender' in the case of youth justice, or 'the parents' in child protection instances are seen to be in conflict with society's standards for appropriate behaviour. These models typically involve professionals to facilitate resolutions in disputes between parties in conflict; in youth justice situations, to develop restitution plans, and for children at risk of harm, protection plans for the child. While these programs do involve the child and family, and in youth justice situations, the victim as well, they rely on professionals to lead the process to a conclusion versus allowing the family to develop its own solutions. Despite the best of professional intentions, models rooted in conflict theory lead to the creation of top down, professionally driven family plans and resolutions.

In contrast, FGC approaches based on the New Zealand model are rooted in ecological and family systems theory. Families are seen as the experts needed to develop effective plans to protect a child or youth from harm and to prevent the child or youth from falling into destructive lifestyles such as criminal activity or substance abuse. The plans families develop themselves are deemed to be more likely to succeed because they have ownership of the plans and are able to provide the

¹ Child Welfare mediation and Alternative Dispute Resolution are examples of programs modelled on conflict theory

wrap around supports and monitoring needed to surround the child or youth at risk. From this perspective FGC necessitates the inclusion of a private family decision-making component as part of the FGC process, during which no professionals are present. The New Zealand model uses FGC in all child welfare and youth justice situations.²

The Newfoundland Labrador Family Decision Making Demonstration Project based on New Zealand's CYPFA, spearheaded the development of hundreds of FGC programs in countries throughout Western Europe, Britain and North America. In the US alone, 25 states are currently discussing or implementing some form of a FGC program. Studies consistently indicate that FGC results in a decrease of the number of children living in out-of-home-care, less court involvement, more extended family involvement with the child or young person and improved cooperation among social workers, community organizations and families. Studies also reveal that many children leaving the foster care system are often poorly educated,³ have deep rooted psychological problems, few community connections or supports and are at high risk of juvenile delinquency.⁴

There is now a substantial body of literature internationally on FGC and restorative justice models that result in less crime, reduced risk to children and youth, more extended family involvement and improved cooperation among social workers, community organizations and families, even families with the most challenging problems.

In the US alone, 25 states are currently discussing or implementing some form of a FGC program. As Karen Gunderson of the Connected and Cared For, a 3-year project of the Northwest Institute for Children and Families and the Washington State acknowledged, *".....the outcomes for these youth were even better than we hoped for. Especially considering that this was a population of very high needs youth in group/congregate care with difficult therapeutic needs and lost family connections. We were able to connect over 90% of them with family and get a significant percentage home...More importantly, we realized what a powerful permanency planning process FGC isbefore the conference, I think most people were just aiming for "stabilization" of these youth...after the conference, it was very clear that these kids were going to leave care with no permanent connections if someone didn't step in.* (Gunderson-Wirth-Yancey, 2005). In Texas, USA following several successful pilot projects, FGC is used in 58 counties, (report of the Texas Department of Family & Protective Services, December, 2006)

² Youth Justice is incorporated into the CYPFA and viewed as a child protection issue in New Zealand

³ "Children's Aid wards were found to be at least one year behind in school" Quoted in the Report of the Children in Limbo Task Force of the Sparrow Lake Alliance, Ont., Canada, April, 1996 from the Report Children at Risk...The Responsibility of the Public and All Political Parties, report of Ontario Association of Children's Aid Societies

⁴ Freundlich, Madelyn DeWoody, Youth Involvement in the Child Welfare and Juvenile Justice Systems: A Case of Double Jeopardy?, Children's Rights, New York, USA, Nov. 2004