

Understanding attachment in decisions on adoption from care in Norway

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Introduction

The attachments between a child and their caregivers are of vital importance for the well-being of a child and for their development as a person. In Norwegian child welfare legislation and policy, there are few definitions or substantive descriptions of what is meant by attachment or of how it is supposed to be assessed in decisions concerning adoptions from care without parental consent. This is despite the fact of ‘attachment’ being one of two alternative basic conditions for consenting to adoption pursuant to Article 4–20 (para 3a) of the Norwegian Child Welfare Act 1992 (CWA), which states that adoption can be consented to if the child ‘has become so attached to persons and the environment where he or she is living that, on the basis of an overall assessment, removing the child may lead to serious problems for him or her’. Decision-makers are provided with significant room for discretion to interpret what attachment entails. Even though adoption is considered to be the strongest measure available in the CWA, we know little about how decision-makers’ discretion is applied and of how attachment is understood and used as a parameter in actual decisions. By studying decisions from the decision-making body for involuntary measures by the CWA, the County Social Welfare Board (the Board), the aim of this chapter is to explore how the concept of attachment is interpreted in decisions on adoption and how decision-makers apply it to inform their decisions.

In the first part of this chapter, adoption is linked with the concept of attachment via a short introduction on attachment theory from the psychological perspective. This is followed by an overview of the formal decision-making structure for decisions on adoptions from care in Norway. Next, we connect the challenges of knowledge

application by professionals in the decision-making process with questions of legitimate decisions and use of discretion, while utilising perspectives inspired by institutional theory and system-theoretical thinking. Further, we present the methods and limitations of the study before presenting and discussing the findings. Finally, some concluding remarks are made.

Background

From the early 2000s and onwards, the development of policies in the field of adoptions from care in Norway has been increasingly influenced by expert knowledge. In recent years, knowledge from the field of psychology has dominated this expert discourse (Tefre, 2020). Tefre (2020) finds that developmental psychology has become a prominent supplier of terms in justifying state interventions on behalf of children in the Norwegian political discourse and, furthermore, that the psychological concept of attachment has attained an increasingly significant position in the political discourse on adoption. Illustrative of this is the authorities' discussion some years back of introducing the principle of 'developmentally supportive attachment' into the child welfare system (NOU, 2012:5). The recommendation entailed that the quality of attachment between children and their caregivers should be given decisive weight in the decision-making process and, if necessary, should be given precedence over the biological principle. This development is not without challenges, and we do not know to what degree decision-makers in Norwegian child welfare matters rely on a psychological understanding of attachment in their practice. The use of expert knowledge and concepts across professional fields requires that the meaning and inherent qualities of the knowledge and concepts are sustained throughout the process, and that it is applied according to its intended purpose. As decision-makers are provided with considerable room for discretion in their interpretation and application of attachment in assessments of adoption, challenges can arise with regards to the legitimacy of both the institutions responsible for the decisions and the decisions being made.

To our knowledge, no previous studies have analysed how attachment is interpreted and applied in public administration or the court system in Norway. There are, nonetheless, studies that have investigated which considerations different decision-making groups and bodies emphasise in their decisions on adoptions from care (Bendiksen, 2008; Skivenes, 2010; Skivenes and Tefre, 2012; Helland, *forthcoming*). From these studies, it is apparent that attachment is a significant factor in adoption

assessments and in the considerations of a child's best interests. In research covering other areas of child welfare practice, it is claimed that the employment of attachment theory in professional recommendations for placement practice for smaller children is not nuanced enough (Smeplass, 2009). Internationally, more research exists and the general message is that while attachment theory and knowledge deserve a place in the family court's deliberations, its application remains flawed due to the lack of consistency and common understanding of the concept (McIntosh, 2011¹; for a discussion, see also Cashmore and Parkinson, 2014). Based on previous research, there is reason to anticipate that we will find variation in the interpretation and application of the concept across, and possibly also within, decisions on adoption.

A concept that can be understood in different ways can mislead reasoning (Copi et al, 2014) and expand the discretionary space in which decisions are made. With few guidelines from the legislators to guide child welfare decision-makers, it becomes pertinent to examine if and how attachment is applied in decision-making by the Board. Is attachment utilised in congruence with psychological theory or more along the lines of common speech? If the latter is the case, what implications could this have for the quality of the decisions that are made?

Formal structures for decisions on adoption from care

The four legal conditions (Art 4–20 para 3 CWA) for an adoption to be consented to are that: (1) the placement is permanent, either due to the parents' inability to provide the child with proper care or the child's attachment to persons and the environment around them (condition a); (2) adoption is in the best interest of the child (condition b); (3) the adoption seekers are the child's foster parents and have proven fit to raise the child as their own (condition c); and (4) the conditions to consent to adoption pursuant to the Adoption Act are fulfilled (condition d). The decision is made by the Board, which is headed by a lawyer qualified as a judge and further composed of an expert (in most cases, a psychologist) and a layman² (for a detailed outline of the conditions for decision-making on adoption in Norway, see Helland and Skivenes, this volume).

Few discussions or directives about how to understand attachment are found in the preparatory work for the CWA, in relevant policy or circulars, or in the guidelines for internal quality proceedings in the Board. Yet, some brief descriptions of attachment do exist. In a Bill from the Ministry of Children and Families (Prop. 106,

p 82) from 2013, it was suggested that attachment and relational quality, understood as ‘interaction, relational quality and form of attachment seen in relation to the child’s age’, should be one of several principles on which to base a child’s best interest decision.

Adoption and attachment

The concept of attachment appears frequently in discussions regarding children and their development, and stands as a principal element when professionals in the field of child welfare comment on a child’s current and future situation of care and well-being (Azar et al, 1998; Kuehnle et al, 2000; Hennum, 2016). Attachment has a specific position in decisions on adoption as it is included as one of two alternative basic conditions for adoption. According to Ofstad and Skar (2015), the child’s age, the duration of the placement and the extent of access between the child and her parents are important elements for consideration in an assessment of attachment pursuant to Article 4–20 of the CWA. Based on case law (see, for example, Rt. 2007 s. 561), circulars, international conventions and obligations (CRC, 2013; The Norwegian Directorate for Children, Youth and Family Affairs, 2017), and research on assessments of the child’s best interest in decisions on adoption (Skivenes, 2010; Skivenes and Tefre, 2012; Helland, 2020), we expect attachment to be a part of the Board’s assessments.

The concept of attachment and attachment theory

Attachment, in the sense of being attached to something, is a term that frequently occurs in everyday speech. We feel connected to persons, things and places, and are able to establish emotional bonds to things and persons that we relate to, as well as with places that feel important to us. This ‘common sense’ understanding of attachment is reflected in our daily use of the term and is related to the concept of ‘belonging’ but not directly connected to the psychological understanding of attachment derived from attachment theory. When we say that we feel attached to something or someone, it is implicit in the statement that the subject of our attachment has an emotional value to us. The essential criteria for such an attachment to arise is exposure over time. Quantitative measures, such as duration and intensity of the relation, are important when describing this form of attachment.

Attachment is also understood as a relational concept in psychology. Yet, in attachment theory, it signifies a relationship that develops between young children and caregivers in a specific time period of a

child's development (Ainsworth, 1982). This is a comprehensive and complex theory, and there is not room to go into detail about the theory here. The main sentiment of the theory is that it links attachment patterns (children's behaviour) with conditions of care. Attachment theory, developed by John Bowlby in the 1950s and further elaborated by Mary Ainsworth and others, is a framework that seeks to explain how children develop in relation to their closest caregivers, how a child's relational experiences shape the child's later expectations and the consequences this may have for the development of psychopathology (Wallin, 2007). What constitutes a comprehensive theory of child development today, for Bowlby, started out with a desire to highlight the consequences for children of experiencing separation and loss of a caregiver (primarily maternal) (Rutter, 1981). Assessing children's attachment within the framework of psychological attachment theory is conducted by applying the 'strange situation' procedure, a test developed by Ainsworth and Bell (1970) to identify patterns in children's responses when exposed to a stressful situation and, subsequently, their response when being reunited with the caregiver. Using this procedure, four 'attachment patterns' can be identified: 'secure', 'insecure-ambivalent', 'insecure-avoidant' and 'insecure-disorganised' (Main and Solomon, 1986). For the purpose of analysis, we understand the psychological use of the attachment concept as emphasising aspects related to the *quality* of the relationship over *quantitative* parameters, such as the length of the relationship, and employ the four categories for classifying attachment within the psychological understanding of attachment.

Based on these two understandings of attachment, we make the distinction between a *psychological* and *non-psychological* understanding of attachment in our analysis, where the latter refers to the 'common sense' utilisation of attachment found in everyday speech. This entails descriptions of attachment as, for example, 'strong' or 'weak', or where it is described as 'lacking' or merely as existing or not. These are ideal types and are, accordingly, simplified representations of reality. Nonetheless, they do provide us with a constructive set of concepts for the purpose of our analysis.

Discretion and legitimate decisions

In interaction with rules, discretion is an indispensable component in decisions made by the courts (Dworkin, 1963) and court-like bodies like the Board. That decision-makers have discretion means that they are provided with a certain freedom that is bound by a set of standards to decide how to interpret and give meaning and form to the law in

each specific case (Hawkins, 1986). Under a democratic rule of law, one is entitled to have an expectation of how the legal text is interpreted and on what basis. Discretion challenges fundamental principles of predictability and that equal cases should be treated equally and different cases differently.

From an institutional perspective, it is problematic if essential concepts are interpreted and applied differently as cultural-cognitive consistency is one of several premises for the legitimacy of an institution (Scott, 2001). In this sense, an institution and its practice can only be legitimate as long as the actors within that institution define a situation similarly and within the same frame of reference. The legitimacy of an institution is also dependent on the quality of the decisions that are made and that the decisions are made according to the existing laws and regulations (Scott, 2001). One could also claim that decision-makers should have a consistent use of expressions in order for an argumentation to be logical and rational (see Feteris, 2017: 81).

Professional discourses and the use of psychological expert knowledge in the decision-making process

Our analysis is informed by the system-theoretical tradition of Niklas Luhmann (King and Piper, 1995; Luhmann, 1995; see also King and Thornhill, 2003), which sees the law as an autopoietic system. That is to say, the judicial system is self-referential and substantiates statements about the world by referring back to the system's own internal means and procedures. Even though the Board is not a court, it operates by judicial procedure and is thus situated within the judicial system. The challenge in child welfare cases is that the judicial system has to take into consideration perspectives that follow different logics than the legal. Through the judicial discourse, legal decision-makers operate with two sets of rationalities or ideologies when deciding on child welfare matters: that of *justice* and that of *welfare* (King and Piper, 1995; Ottosen, 2006). Where the binary justice perspective characterises the logic within the judicial system – that something is legal or illegal, right or wrong – child welfare matters demand that one also takes the welfare perspective – of what is good or bad for the child.

Following this line of thought (King and Thornhill, 2003), the judicial system is considered closed in the sense that information tends to be considered valid only when it can be reproduced by the system's own procedures and criteria. At the same time, the judicial system is by its own means unable to produce the necessary knowledge relevant for a child welfare case. The judicial system is therefore dependent on

externally produced knowledge, and here is where the psychological perspective enters the equation. From the psychological discourse, the decisions are informed on matters concerning the child's social and psychological well-being – of what is harmful or beneficial for children. The influence from this discourse can be found both on an individual level, reflected in decision-making and methods for retrieving information, and on a more general or abstract level, such as in laws and policies relating to child welfare matters (Ottosen, 2006), as seen in the earlier discussion about the increasing influence from the psychological field of expert knowledge on Norwegian child welfare policy.

Methods and data

The data for the study underpinning this chapter consist of all the decisions made on adoption by the Board in the year of 2016 – 58 decisions in total, with 56 of them resulting in an adoption order. The Board is obligated to give written reasons for its decision, and these documents are structured as follows: a presentation of the facts of the case; the parties' argumentation, both the public party (the municipality) and the private party (the parent[s] and/or the child); and the Board's assessment and decision. On average, the Board's assessment constitutes six pages. The expert on the Board was a psychologist in 67 per cent of the cases,³ a psychiatrist in 14 per cent, a (clinical) social worker in 9 per cent, a child welfare officer in 7 per cent and a special education teacher in 3 per cent.

The 58 written documents were analysed in five steps⁴: (1) we started by reading all the decision documents to identify how attachment was described; (2) we thereafter identified all references to attachment and attachment-related terms⁵ in the decisions by searching and registering references; (3) we identified to whom and how (non-psychological or psychological character) attachment was described; (4) we registered which terms were used to describe the attachment; and, lastly, (5) we explored the meaning of attachment as a concept by identifying how the Board makes use of and operationalises attachment in their argumentation. We used the analytical tool Nvivo 12 for steps three to five, and only the Board's assessment is analysed. All data were reviewed and registered manually, and, with the exception of step four, the occurrence of references is counted per case and the number of occurrences within each case is not considered. The coding in step five was reviewed in three steps, where the researchers systematically reviewed their own coding, each other's coding and conducted a joint

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review. As a reliability measure, strict conditions were set for which parts of the text were eligible for coding. The text had to either: (1) contain direct references to the term; or (2) be an identifiable part of the discussion related to the second alternative of the basic condition (a) given in Article 4–20 (para 3) of the CWA. Direct references to the law and when the term ‘attachment’ was not used to describe a relation were excluded from analysis.

Limitations

Our analysis is based on written material – authored in retrospect and for a certain purpose – and does not provide a complete representation of the cases. These documents do not contain all the information available to the Board during the negotiation. Still, the Board is required to account for the formal decision, and the content of the decision will thus reflect the justifications that the Board wishes to account for in the official decision (see Magnussen and Skivenes, 2015). Another limitation is that we cannot say anything about the quality of the investigations made by experts and other professionals in the cases.

Findings

Where and how often?

The results reveal that attachment is a significant element in decisions on adoption (see Table 13.1). Given the wording of the law, this was expected. It is furthermore evident that, in most cases, attachment is addressed as part of the public party’s argumentation for adoption. In the private parties’ argumentation, there are references to attachment in about half the cases.

Table 13.1: Cases with references to one or more attachment-related terms in the decision documents

Part of decision document	Number of cases with references to attachment
I. Public party (the municipality)	55 (95%)
II. Private party (parent[s])	30 (52%)
III. Private party (the child)	2 (3%) ^a
IV. The Board’s assessment	57 (98%)

Note: Distributed by the section in the document where the references were identified. Number of cases and percentage of total number of cases ($n = 58$).^a For a child to be party to the case, they have to be 15 years or older; thus, the child is rarely party to the case.

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Table 13.2: Conditions of Article 4–20 where attachment is assessed/described in the Board’s assessment

	Conditions (letter) for adoption (Art 4–20)				
	(a) Permanence	(b) Best interest	(c) Foster parents’ fitness	(d) Legality	Other/ unknown
<i>N</i> (%)	55 (95%)	50 (86%)	4 (7%)	1 (2%)	3 (5%)

Note: Number of cases and percentage of total number of cases (*n* = 58)

Table 13.3: Attachment described with relation to persons or environment, differentiated by type of attachment understanding (non-psychological or psychological)

	Non-psychological			Psychological	
	Foster parents (family)	Biological parents (family)	Environment (extended family)	Foster parents (family)	Biological parents (family)
<i>N</i> (%)	54 (93%)	41 (71%)	18 (31%)	22 (38%)	9 (16%)

Note: Number of cases and percentage of total number of cases (*n* = 58)

In relation to the four legal criteria for adoption (see [Table 13.2](#)), we find that attachment is mentioned and described in relation to the permanency condition (a) in the law in all cases except three.⁶ Attachment is also a highly relevant factor in best interest assessments: 86 per cent of the cases include a description of the child’s attachment to persons or environment, related to condition (b). Attachment is rarely mentioned in assessments of the foster parents’ fitness (condition c) or of the legality (condition d) of the decision in relation to the adoption law.

To whom is attachment assessed by the Board?

When reviewing to whom the child’s attachment is described and if the described attachment is of a ‘non-psychological’ or ‘psychological’ character (see earlier definitions and [Table 13.3](#)), we find that the non-psychological understanding of attachment is dominant compared to the psychological. Descriptions of attachment between the child and their foster parents occur more often than between the child and their biological parents. Furthermore, our analysis revealed that attachment is assessed in terms of existing or not existing – it either is or is not. Where the Board finds that there *is* an attachment – in positive terms – between the child and their foster parents, no such attachment is found between the child and their biological parents. In about one third of the

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Table 13.4: Psychological-oriented terms used to describe attachment

Psychological references	Distribution of the 36 references	The child's attachment to references
Secure	29 references	The foster parents (family)
Insecure	6 references	Biological parents
Disorganised	1 reference	Biological parents

Note: Terms used and between whom attachment is described. Number of references by term ($n = 25$ cases)

cases, the child's attachment to their environment or extended family is also described, usually depicting an attachment with extended family (grandparents, aunts, uncles and so on) or the 'environment around the family'. Considering that the law only requires an assessment of foster parents, it is interesting to find that attachment to biological family is assessed in relation to both condition (a) and (b) – in about one third of the cases for the former and just above half for the latter.

How is attachment described by the Board?

When studying the adjectives applied to describe attachment (see [Table 13.4](#)), we find that it is less common that notions of attachment occur in the psychological form as described with terms from attachment theory, as previously noted. A further exploration, revealed 225 occurrences of 'attachment' being accompanied by a descriptive adjective (distributed among 40 of the 58 cases). Among these, 36 adjectives (distributed among 25 of the 58 cases) had a distinct reference to a psychological use of the term (secure, insecure and disorganised). The 29 times that 'secure attachment' was mentioned (distributed among 22 cases), it was always as a description of the relation between the child and their foster parents. When 'insecure attachment' (six instances) or 'disorganised attachment' (one instance) were mentioned, they concerned the child's attachment to biological parents.

In contrast, we identified 82 instances (distributed among 34 cases) of attachment being accompanied by an adjective adhering to the non-psychological understanding of the term and that expressed a quantitative evaluation of the attachment, such as 'strong', 'weak', 'lacking', 'complete', 'absence of' or 'none'. Multiple adjectives are sometimes used to describe attachment in the same sentence; non-psychological and psychological descriptions of attachment were combined 32 times (for example, 'safe and secure'). Moreover, the Board frequently describes attachment as 'fundamental', 'basic',

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Table 13.5: Assessments and descriptions of all forms of attachment

Thematic dimension			
	Time	Identity, integration and belonging	Care and contact
N (%)	52 (90%)	44 (76%)	35 (60%)

Note: Number of cases and percentage of total number of cases (total $n = 58$). $N = 30$ cases also containing a variety of other themes

‘rooted’, ‘real’, ‘primary’ or ‘psychological’. When such designations are used, they refer to the assessed intensity of the attachment, and allude to a qualitative property of the attachment.

How does the Board understand attachment?

We explored how the Board understands and operationalises attachment in its argumentation (see Table 13.5), and found that time is the most common parameter for assessing attachment (in 90 per cent of the cases). The age of the child when they were first placed out of home or in the care of the adoption seekers, the length of the placement, and the age of the child at the time of the decision in the Board are factors that are mentioned. Thus, the permanency of the placement appears key. Furthermore, we find that attachment was assessed on conditions related to ‘care and contact’ in 60 per cent of the cases. Most often, we find this expressed as the lack of attachment to biological parents, where the (low) frequency and quality of contact between parents and the child apply as relevant conditions. Within this category, we also find that parents’ previous neglect or failure to provide the child with adequate care is found to inform the assessment as a disadvantaging factor of the attachment between the child and their biological parent(s). In contrast, the foster parents’ care is seen to have provided fertile ground for attachment bonds to grow. The child’s identity, integration and belonging are referred to in 76 per cent of the cases. Considerations within this category are tightly intertwined, and are interpreted as expressions related to identity and the child’s feeling of self and safety (see, for example, Triseliotis, 1983). Mentions include descriptions: of whom the child sees and experiences as their de facto parents (family), and of not knowing any other family; of being a natural part of the family and that it is ‘as if the child was the foster parents’ biological child’; of being integrated into the family and the environment around it; of calling the foster parents ‘mom’ and ‘dad’; and of wanting to or using the family name of the foster family.

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Such considerations are, with two exceptions, only used to describe attachment bonds to the foster family.

Discussion

We find that attachment figures as an important concept in the written statements from the Board when it makes decisions concerning adoption from care. However, a wide range of meanings is prescribed to the attachment concept and there is no obvious common denominator or understanding of what attachment is or how it should be described, as illustrated by the fact that, among other things, attachment was accompanied by a multitude of different adjectives. Although we identified some common practices for where and how attachment is assessed, and were able to describe the parameters that were widely used to inform an assessment – time; identity, integration and belonging; and care and contact – the decisions do not display any apparent convergence on the conceptual understanding of attachment, neither between nor within cases. Even though we cannot claim that there is a single pathway or factor that determines attachment security (see George et al, 2011), or that the variety we have observed would have substantial implications for the outcome of the decision and, in turn, for the parties involved, the unpredictability could pose a considerable challenge for the quality of the decisions. Considering that similar assessments to those analysed here are highly relevant for both decisions on reunification and care orders, the issues identified could potentially have implications for a wider range of decision-making processes.

What primarily characterises how attachment is described in the decisions is the marked binary distinction between the presence and absence of attachment. This could be a consequence of the procedural process. The law requires that the person(s) seeking to adopt have fostered the child and that they have been proven fit to care for the child as their own, and the cases that are tried for adoption are, in all the essentials, cases where reunification is not considered a viable option. This probably explains why attachment is more commonly discussed in relation to the child's foster parents compared to biological parents. It also sheds some light on the fact that the child's identity and belonging were, in all essentials, discussed related to the foster home, though the lack of attention to the child's 'birth identity' and to considerations related to the child's biological origin could be problematised (see, for example, recommendations in 'General comment no. 14' of the CRC Committee [2013]). At the same time, our analysis revealed that in relation to the legal permanence condition (a), the Board assesses

attachment not only in relation to foster parents, which is what the law requires, but also in relation to biological parents. This could be interpreted as an argumentative strategy, where the Board contrasts the child's attachment to their foster parents with the lack of such attachment to their biological parents with the purpose of reinforcing the argument that the attachment between the foster parents and the child is of such a nature that removing the child may lead to serious problems for them. In this perspective, the discretionary reasoning is exercised by applying contrast as an argumentative tool.

The findings hint at an outline of a binary juridical discourse. It is the task of the Board to assess where and whether attachment exists or not in order for the decision to be right or justifiable. In line with a judicial logic, attachment may become a question of presence or absence. Although it is easily imaginable that attachment can be present in one situation and not in another, this binary logic might become problematic if it forces attachment into being or not being present, among other things, because research has shown that children may have several attachment relations (Killén, 2007). It can also pose a problem for the quality of the decision if complex constructs such as attachment are simplified and understood in binary terms. According to Groze and Rosenthal (1993), such dichotomies can appear when it is difficult to gather around a uniform understanding of a concept. This usage of the term can be misleading and it is a question whether attachment, rather than being understood as being or not being, should be seen as a continuum or as having multiple levels.

We also find traces of a tension between welfare and justice. The psychological understanding of attachment has a less explicit position in the assessments. At the same time, it is obvious that the Board combines non-psychological and psychological understandings of the concept; the judicial discourse alludes to the psychological discourse on several occasions. This makes the interpretation of the Board's utilisation of the construct challenging. One explanation for this practice is that the influence from psychological expert knowledge, as seen at the policy level, has manifested itself at the concrete level in the actual decision-making. In addition, it may be a result of the Board's composition given the high prevalence of psychologists acting as members of the Board.

We found that attachment was dominantly discussed in relation to the permanency condition (a). As the basic condition of Article 4–20 provides two alternatives for determining the permanency of a placement, this implies that attachment could be the preferred alternative to be addressed. In practice, because of how the law is outlined, it becomes somewhat redundant to address the often more

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complex and difficult question of the likelihood that the parents will be permanently unable to provide the child with proper care if a relocation of the child is already considered to cause serious problems for the child based on an assessment of attachment (Lindboe, 2011). It could also be the (most) relevant alternative to assess, or it could be that attachment is assessed irrespective of which alternative is decisive for the permanence decision. Given that quality of care is understood as an indicator for an attachment bond, it might also be intercorrelated with an assessment of the birth parents' ability to provide care. It is interesting that we also find that attachment is a frequently mentioned factor in best interest assessments. Taking into consideration that the child's identity, integration and belonging, conditions of care, and de facto family situation are provided as parameters for an attachment, it is not surprising that it would also become a part of a best interest assessment. Yet, the question of whether attachment is seen as an umbrella concept that covers most concerns relevant for an adoption assessment, or whether it is merely considered as pivotal in the balancing of adoption or continued foster care, remains unclear.

Conclusion

Our analysis shows that attachment has a prominent position in decisions on adoption, both in terms of determining the permanency of the placement and for assessing if adoption is in the best interest of the child. The quality of the assessments is thus vital for the overall quality of the decisions. At the same time, our analysis shows that there is variation in the conceptualisation of attachment. This was expected given the comprehensive room for discretion that decision-makers are given. Furthermore, while it is beyond the scope of this chapter to consider whether attachment is better understood as a psychological or a non-psychological construct in these decisions, it is clear that problems may arise when predictability is at stake and if the same concept entails different meanings. This begs the question of whether the legislators should provide stronger and more substantial guidance for decision-makers as to how to assess and give meaning to attachment in adoption cases. That could be a useful measure to minimise ambiguity and ensure greater consistency in the understanding and application of attachment by the courts and the Board.

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Notes

- ¹ Results based on a survey of 298 respondents from the US, Canada, Norway, Australia, New Zealand, South Africa and Israel.
- ² The Board could be composed of five members, should the case in question require it.
- ³ In seven cases, there were two experts on the Board, and in another in seven cases, the case was decided by the Board leader alone. In the cases where an expert was actually assigned to the Board, they were a psychologist in 75 per cent of the cases.
- ⁴ A full description of the analytical approach and code descriptions are available at: www.discretion.uib.no/projects/supplementary-documentation/
- ⁵ In Norwegian, 'knyttet til', 'tilknytning', 'tilknytningen', 'tilknyttet' and 'tilknytningspsykologisk'.
- ⁶ In one case, such an assessment was not relevant, while in the two other, the permanence condition (a) is only assessed in relation to the birth parents' inability to provide care.

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