

A Quest for Justice: Recognition and Migrant Interactions with Child Welfare Services in Norway

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Abstract

Norwegian Child Welfare Services (NCWS) has faced intense criticism regarding their interactions with migrant families, with international human rights monitoring mechanisms expressing concern regarding ethnic discrimination over the past decade. Our aim is to contribute to the academic discussion around migrant interactions with NCWS through exploring the suitability and relevance of Nancy Fraser's theory of social justice, with a particular focus on recognition. We utilize the narratives of two migrant parents and two child welfare practitioners supplemented by critiques from international human rights monitoring mechanisms to bridge the gap between the theoretical level, institutions, and daily practices. Three areas regarding the suitability of recognition in the case of NCWS are discussed: misrecognition as institutionalized subordination; equality, sameness, and difference in the Nordic welfare state; and the dynamic nature of culture. While we find recognition to be an essential element to be considered in the case of NCWS, we emphasize recognition must also be considered within Fraser's larger understanding of social justice, alongside redistribution and representation.

Key Words: *recognition; child welfare; migrant; social justice; redistribution*

Introduction

Norwegian Child Welfare Services (NCWS) has faced intense criticism regarding their interactions with migrant families, with international human rights monitoring mechanisms highlighting concerns regarding ethnic discrimination over the past decade; with this chapter, we hope to contribute to the academic discussion by examining what Nancy Fraser's understanding of social justice and recognition contribute in the case of NCWS. In its Universal Periodic Review from May 2019, the Human Rights Council recommended Norway review current practices relating to out-of-home placements, deprivation of parental rights, and limitation of contact rights (UN Human Rights Council 2019). In general, migrants are overrepresented – compared to the majority population – in interactions with NCWS, particularly in voluntary assistance including advice, guidance, and poverty reduction measures; however, overrepresentation varies greatly between

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migrants from differing countries of origin, with some groups being strongly overrepresented¹ in voluntary assistance measures and some migrant groups being underrepresented² (Berg et al. 2017; Christiansen et al. 2019; Dyrhaug and Sky 2015; Staer and Bjørknes 2015; Thorud 2019). The issue of migrant family interactions has been raised previously by the UN Committee on the Rights of the Child in 2010 and 2018, when concerns that “child welfare assistance for children from ethnic minorities is of a much lower standard” were raised (UN Committee on the Rights of the Child 2010: 14). Such critiques relate to a context of complex migration processes and increased public hate speech, whether by politicians or media professionals and social media towards different targeted populations including asylum seekers, Muslims, the indigenous Sámi population, recognized national minorities including Jews and Roma, and others (UN Human Rights Council 2019).

Research in different fields have addressed growing criticism of NCWS; our aim is to contribute to this current debate by utilizing an interdisciplinary perspective focused on the interplay between critical theory, child welfare, and human rights. From this angle, our chapter presents the context of NCWS and the extent to which Nancy Fraser’s critical theoretical approach to recognition, redistribution, and representation (Fraser 2000; Fraser 2001; Fraser 2007; Fraser 2008a; Fraser 2008b; Fraser 2010; Fraser and Honneth 2003) provides a suitable analytical framework to examine socio-cultural, socio-economic, and socio-political aspects of injustice. Thus, in this article we ask: to what extent may Fraser’s understanding of social justice – encompassing recognition, redistribution, and representation – be suitable to provide insights in exploring (mis)recognition of migrant families in the case of NCWS? To answer this question, we utilize the narratives of migrant parents and child welfare practitioners and relate to international human rights law documents and domestic legislation regarding migrant interactions with NCWS.³ The narratives of two parents and two child welfare practitioners will be utilized to bridge the gap between daily social interactions and large-scale social structures (Ewick and Silbey 1995). While the individual narratives shared in this chapter cannot be generalized in and of themselves, they are essential to construct an understanding about (mis)recognition in NCWS as it is understood and lived by the people directly involved with different aspects of the child welfare system.

In this article, we will share the experiences of John, Emma, Anna, and Ashley⁴. John is a migrant parent who has lived in multiple countries and has obtained Norwegian citizenship; his experience with NCWS comes through work as a translator for the municipality, where he has translated for migrant families in NCWS cases. His concerns were wide, including a lack of knowledge migrant families have of NCWS, the power of NCWS as an institution, and a Norwegian normative framework which he understands as guiding NCWS. He suggests greater access to information about NCWS and more room in legislation for cultural nuances would improve the relationship between migrant parents and NCWS. Emma is a child welfare practitioner who works for NCWS – she has lived in multiple countries and has an international family. A

¹ Migrants from Latin America, Africa, Asia and Turkey, Eastern European countries that are outside of the EU as well as refugees are overrepresented in voluntary assistance measures (Berg et al. 2017: 44).

² Some groups that are underrepresented in voluntary assistance measures include migrants from Poland, Russia, and India (Berg et al. 2017: 44).

³ These narratives were collected by Kvalvaag in 2017 and 2018 as part of a larger project.

⁴ Pseudonyms.

primary concern of Emma was (lack of) cultural competency and how the child welfare system is designed considering the Norwegian norm, with seemingly little room for difference. In her opinion, NCWS is in need of reform to better accommodate the families residing in Norway today. Anna is a child welfare practitioner who works for NCWS; she is a migrant to Norway and expresses the time needed to become established in a new place. She emphasizes building trust as an important factor in enhancing the relationship between migrant families and NCWS. Ashley is a migrant parent who was initially very afraid of NCWS due to the large negative publicity the institution has received in her home country; however, the longer she has lived in Norway, the more positive things she has heard about NCWS. She emphasizes trying to adapt to Norwegian society and navigating “a perfect middle way” of combining aspects from Norway and her home country. With the hope of exploring more in-depth some of the nuances relating to recognition, these narratives will be integrated throughout the following sections.

First, we examine the Norwegian context to provide a brief overview of migration in Norway, migrant trust in NCWS, and child welfare legislation. Second, we discuss our conceptual framework by setting out Fraser’s theory of social justice, recognition, and participatory parity which will guide and inform our analysis. Third, we present data from the selected narratives and analysis in relation to the suitability of recognition, focusing on: (a) misrecognition as institutionalized subordination; (b) equality, sameness, and difference in the context of the Nordic welfare state; and (c) the dynamic nature of culture, with consideration for narratives from parents and practitioners and Fraser’s theory of recognition. Fourth, we focus on the importance of redistribution and representation in the case of migrant interactions with NCWS. Finally, we conclude with final thoughts relating to social justice, recognition, and migrant interactions in the case of NCWS.

The Norwegian Context

Norway is recognized as being an international leader in human rights, notably children’s rights and child protection. The first law addressing child welfare in Norway came into force in 1896 and in 1953 new children welfare legislation emphasized preventative measures, counseling, guidance, and in-home treatment (Follesø and Mevik 2011). Current legislation on child welfare in Norway – the *Child Welfare Act* (Norwegian: *Barnevernloven*) – was established in 1992 and the most recent amendments were passed in 2018. The Nordic countries are often portrayed or described as child-centered paradises; however, the region is not immune to issues of social exclusion and poverty – particularly for those in ethnic minority communities (Forsberg and Kröger 2011). This may be understood within the larger frame of what Langford and Schaffer (2015) term the *Nordic human rights paradox*, where social pluralism is restructuring domestic implementation of human rights.

As we begin with an assumption that NCWS does not operate within a societal vacuum, it is important to briefly consider the wider context of migration in Norway. In the aftermath of the so called “2015 migration crisis” – where more than 30,000 asylum-seekers applied for asylum in Norway – stricter asylum policies were implemented and broadly publicized. As a consequence, the number of asylum-seekers arriving in Norway today is one of the lowest in many years; in the last two years, only around 5,000 persons applied for asylum (NOAS 2019). Stricter policies have

led to the adoption of many state driven actions towards *non-entrée* and important restrictions to family reunification and access to resident permits were implemented. At the same time, Norway's international discourse advocates for 'genuine' solidarity towards refugees elsewhere (Mezzanotti 2018). These new policies were carried out within the context of concerns relating to the rise of right wing discourses, hate speech, and xenophobia against minorities, particularly migrants (including Norwegian born to migrant parents) and national minorities (UN Human Rights Council 2019). As perceived discrimination can influence the lack of trust between migrants and institutions, these discourses and stricter policies may be interpreted as barriers to the participation of migrants in the political sphere and contributing to a lack of trust between migrants regarding public services, such as NCWS (Korzeniewska et al. 2019).

The issue of trust between migrant families and NCWS has received considerable attention in Norway – both in the media and as a subject of public debate (Korzeniewska et al. 2019). Success factors in building trust between migrants and public institutions include being familiar with the institution, understanding and interpreting an institution, and predicting, with reasonable certainty, an institution's actions (Korzeniewska et al. 2019). A common theme in Anna's narrative illustrates a concern about the lack of trust of migrants to NCWS, particularly in initial stages of contact:

People know or they've heard a lot about us and they come here [to NCWS] very scared. So much of the time you spend, like trying to make them understand, to calm down, to that level where you can actually work and interact properly... There was one mom that told me that, you know, when she goes into the door there [at NCWS] and people see her and start thinking "oh, they are going to take your kid very soon"... Well, at the end of the day, we didn't do that. And it kind of made her realize that we do more than taking the child, which is the general belief of many people really. So we do other things. We actually give counseling, we help with other small things too, like trying to find the right body, or person, or organization to help them, you know, depending on the kind of problem. So we do more than taking custody of people's children. But it just that, when people come in and are afraid already, then you just know, you have to be very patient and you have to spend up to like a year trying to convince them before they actually see that we all want the same thing. We want what is best for the child – you want what is best for the child and so do I. (Anna)

Correspondingly, the UN Committee on the Rights of the Child has expressed concern over "insufficient communication and information exchange between child welfare services and families, in particular migrant families" (UN Committee on the Rights of the Child 2018). Current research also suggests a general lack of trust in NCWS and many migrant parents view NCWS as a threat rather than a helpful service (Ipsos 2017; Korzeniewska et al. 2019; Øverlien 2012). For example, Fylkesnes et al. (2015) findings suggest that fear of NCWS is generally related to general perceptions or generalizations that NCWS primarily takes children away from their parents, that NCWS does not go into a dialogue with parents, and that NCWS discriminates against migrant families; these perceptions are not based on their interviewees own experiences, but rather what

they describe as common representations among migrant families in general (Fylkesnes et al. 2015). Christiansen et al.'s (2019: 11, 239) findings indicate a larger number of families with migrant background, than non-migrant background, experience risk assessments and investigations early-on in interactions with NCWS suggesting a more intervention-based mode of child protection; they suggest this more intervention-based experience may also influence some of the skepticism and fear which exists between migrant families and NCWS, not only cultural related perceptions about the relationship between governmental authorities and families.

As a response to the critique and lack of trust, revisions were made to child welfare law in 2018 (Thorud 2020). The purpose of these amendments is to adapt the child welfare legislation to be more appropriate for today's society and to strengthen children's rights (Thorud 2020). There is also a draft for amendments intended "to strengthen the consideration of the child's religious, cultural and linguistic background" (Thorud 2020: 81). Further, a *Competence Strategy for the Municipal Child Welfare Services (2018-2024)* has been implemented, which includes an educational aspect to increase "greater understanding and sensitivity in the follow-up of children and families with minority backgrounds" (Thorud 2020: 81). However, it is unclear how much the voices of migrants have been included and considered in these reforms. Between 2017 and 2018, children and youth with a migrant background constituted 18% of the population and 28% of the children and youth who received assistance from NCWS (Thorud 2019). It is interesting to note that migrants are not overrepresented in out-of-home placements or child removals as migrant families seem to fear, but rather in voluntary assistance measures (Berg et al. 2017); this may be related to the emphasis the system places on preventative measures. Staer and Bjørknes (2015: 30) investigate NCWS involvement among families with children ages 6-12, finding that children with non-Western migrant parents have double the likelihood of voluntary assistance measures being implemented by NCWS when compared to children with non-migrant parents; however, migration background was not found significant when controlling for socio-economic conditions, suggesting the essential role of socio-economic background in NCWS cases with migrants (Christiansen et al. 2019; Staer and Bjørknes 2015: 30). Removing a child from his or her family and resorting to alternative care without parental consent is deemed a measure of last resort (Thorud 2020).

There are several who argue the current interactions and general overrepresentation of migrants in NCWS may not be as problematic as it appears on the surface. For example, Skivenes (2014) suggests an overrepresentation of migrants in voluntary assistance measures by NCWS is not alarming as welfare state ambitions are in line with poverty reduction among migrant families (see also Christiansen et al. 2019; Staer and Bjørknes 2015). Yet, migrant interactions with NCWS and concerns about discrimination against minorities have received extensive attention and critique from international human rights monitoring mechanisms, including the UN Human Rights Council during the Universal Periodic Review⁵, the UN Committee on the Rights of the Child⁶, the UN

⁵ See *Report of the working group on the Universal Periodic Review: Norway* (Report No. A/HRC/42/3); *Report of the working group on the Universal Periodic Review: Norway* (Report No. A/HRC/27/3); and *Report of the working group on the Universal Periodic Review: Norway. Addendum* (Report No. A/HRC/27/3/Add.1).

⁶ See *Concluding observations on the combined fifth and sixth periodic reports of Norway* (Report No. CRC/C/NOR/CO/5-6); *Consideration of reports submitted by States parties under article 44 of the Convention* (Report No. CRC/C/NOR/CO/4); and *Consideration of reports submitted by States parties under article 44 of the Convention* (Report No. CRC/C/NOR/5-6).

Committee on the Elimination of Racial Discrimination⁷, the UN Committee on Economic, Social and Cultural Rights⁸, and the UN Human Rights Committee⁹. Further, as indicated by the previously mentioned amendments to domestic law, critiques from international human rights monitoring mechanisms, aligned with transnational and domestic mobilization appear to have an effect on domestic legal reforms. States comply with international recommendations for different reasons (Krommendijk 2015), but Norway’s general conduct on the matter suggests a dichotomy not easily overcome. The country seems to be committed to maintaining its reputation for abiding their international law obligations, thus maintaining its reputation in the international arena, but at the same time approves a series of stricter regulations related to migration (Mezzanotti 2018). The country’s self-characterization as a human rights friendly society, a “moral superpower” (Langford & Schaffer 2015), contradicts its current policies towards different aspects of a migrants’ life.

As mentioned previously there have been amendments to the current *Child Welfare Act* and a further revision to strengthen the consideration for the child’s religious, cultural, and linguistic background has been proposed (Thorud 2020). This recent reform of the NCWS will only prove itself effective from the perspective of migrants’ recognition if NCWS’ further work, in practice, enables the participation of migrants in its processes as peers and with parity in relation to Norwegians. Legal or policy change will only lead to social justice if institutionalized value patterns that impede parity of participation are replaced with ones that enhance it (Fraser 2000). In the sections to come we aim to demonstrate how multifaceted and institutionalized misrecognition has been.

Social Justice, Recognition, and Participatory Parity

In our particular case, it is important to understand recognition within Fraser’s larger theory of social justice. Social justice is understood as multi-dimensional, including spheres of redistribution, recognition, and – in Fraser’s more recent works – representation. Participatory parity is the normative core of social justice, where “justice requires social arrangements that permit all (adult) members of society to interact with one another as peers” (Fraser 2008b: 16; Fraser and Honneth 2003: 36). There is a focus on the macro level, where overcoming barriers to justice “means dismantling institutionalized obstacles” that create barriers to the parity of participation (Fraser 2008b: 16). Fraser acknowledges that recognition and redistribution philosophically seem paradoxical; however, she integrates the relationship between recognition and redistribution through perspectival dualism, reconciling their seemingly contradictory nature with a single normative standard – participatory parity (Fraser 2007; Fraser and Honneth 2003). Like Fraser, we understand misrecognition as institutionalized status subordination (Fraser 2000; Fraser and Honneth 2003; Olson 2008). Status subordination prevents individuals from participating as a peer in social life, resulting in misrecognition; the remedy then lies in “establishing the misrecognized

⁷ See *Combined twenty-third and twenty-fourth periodic reports submitted by Norway under article 9 of the Convention, due in 2017*. (Report No. CERD/C/NOR/23-24) and *Consideration of reports submitted by States parties under article 9 of the Convention* (Report No. CERD/C/NOR/CO/19-20).

⁸ See *Concluding observations on the fifth periodic report of Norway* (Report No. E/C.12/NOR/CO/5).

⁹ See *Consideration of reports submitted by States parties under article 40 of the Covenant* (Report No. CCPR/C/NOR/CO/6) and *Concluding observations on the seventh periodic report of Norway* (Report No. CCPR/C/NOR/CO/7).

party as a full member of society, capable of participating on a par with other members” (Fraser 2004: 129).

Further, *two-dimensionally subordinated* groups face struggles with both misrecognition and maldistribution; in these cases, “neither a politics of redistribution alone nor a politics of recognition alone will suffice” (Fraser and Honneth 2003: 19). There is a need for child welfare systems to pay attention to both the cultural and material dimensions associated with social class, which seems to reinforce the relevance of Fraser’s perspectival dualism “treating every practice as simultaneously economic and cultural, albeit not necessarily in equal proportions” (Fraser 2003: 63). Lazzeri (2009) argues that recognition alone may appear to present culture as a main factor behind claims and conflicts while ignoring the significant role of economy. In the case of NCWS, this is important as culture is often recognized as a primary contributing factor to the overrepresentation of migrant families; however, when controlling for economic status, there is a reduction in overrepresentation of migrants in NCWS (Berg et al. 2017; Staer and Bjørknes 2015). Therefore, while recognition is one crucial element of Fraser’s theory, it should be considered in relation to redistribution as a matter of social justice.

Again, participatory parity is crucial – the evaluative standard – in Fraser’s theory when distinguishing struggles for recognition which are legitimate and necessary; only practices which promote parity are justified (Fraser 2001; Fraser 2007; Fraser and Honneth 2003). The norm of participatory parity highlights injustice and institutional hierarchies, focusing on structural factors including marginalization and exclusion (more related to misrecognition) and poverty and unemployment (more related to maldistribution) (Fraser 2003). Misrecognition is understood as being “relayed through institutions and practices that impede parity” and cannot be solved solely through eliminating prejudice (Fraser 2001: 32-33; Fraser 2007: 309; Fraser and Honneth 2003: 38).

Participatory Parity and the Subject(s) of Justice

Does the norm of participatory parity actually fit a context like NCWS where there are inherent power imbalances between families and practitioners? And what kind of participation may be demanded by justice? Social workers are, by the nature of their work, in a position of power. When interviewing parents about their experiences with NCWS, Havnen et al. (2020: 142, 167) describe that while the experiences were largely positive, many parents described a fear of NCWS due to the power inherent in such an institution. In this position of power, practitioners can sometimes – whether deliberately or unconsciously – display cultural superiority in their work with clients from other cultures (Christiansen and Anderssen 2010; Fitzsimmons 1997; Piña and Canty-Swapp 1999; Zavirsek 2001). For example, Hennem (2011) describes the power of practitioners in document writing and how this strengthens ruling definitions of normality by reinforcing norms of cultural consensus on familial life and parenting. However, participation and dialogue seem to be emphasized as ideals to strive after in Nordic social work, placing participatory parity as an ideal for family-practitioner interaction.

In regard to parent(s) ability to participate, the 2018 *Child Welfare Act* is clear that NCWS has a duty to show respect for and, as long as possible, work together with parents (§1-7) (Havnen et al. 2020: 25). What can be seen as an attempt to equalize the power relations between

practitioners and parents, there has been a recent movement¹⁰ by the County Social Welfare Boards¹¹ toward a “dialogue process”: here, the focus is on solutions and coming to an agreement through dialogue and between NCWS, parent(s), and – when the child is old enough – the child(ren) (Andersen 2020). In June 2020, the Norwegian parliament decided this dialogue process would be implemented as a permanent solution in all County Social Welfare Boards across the country (Andersen 2020). In this way, parent(s) ability to participate within the larger structure of NCWS has been enhanced. Depending on implementation, this may be a move toward increased parity of participation for migrant families and should be examined in future research. In addition, we understand the normative core of social justice – participatory parity – would require migrant families to be able to participate on par with non-migrant families in regard to interactions within the larger children welfare system; this may, in some instances, require differential treatment (Fraser and Honneth 2003: 47; Olson 2008: 136-137). Therefore, justice – from a child right’s perspective – may require that migrant parents: are treated with respect, are informed about the process of NCWS, and are able to participate as full partners in interaction where assimilation to dominant norms is not a criterion for access to participation in the institution at large.

In addition, there are inherent power imbalances between children and adults. NCWS is often heralded for taking a child-centered approach; however, there remain limitations and challenges regarding participation of the child in NCWS. Havnen et al. (2020) examine the ability of children to participate and express their views in child welfare investigations. In 1,123 NCWS investigations involving children from 0-17 years old, only 60% of children had conversations with NCWS; this percentage increased to 76% of children of children over 6 years old (Christiansen et al. 2019: 5; Havnen et al. 2020: 3, 8, 61, 158, 169). The 680 cases where there was a dialogue with the child were organized into themes based on the journal notes: only 31.5% of cases had themes which included a child’s perspective or opinion (Havnen et al. 2020: 4, 9, 70-71, 161). While the content of conversations suggested limited participation of the child in regard to expressing his or her views, Havnen et al.’s (2020: 75, 162, 169) findings suggest conversations with the child had influence on which themes NCWS became worried about during the investigation.

How can, and should, children participate in decision making processes in NCWS considering justice?¹² From a children’s rights perspective, the Convention on the Rights of the Child promotes the right to express views on issues affecting the child’s interests (Article 12.1) and the best interests of the child (Article 3.1) (Archard and Skivenes 2009a; Havnen et al. 2020: 18). In addition, the 2018 changes in the *Child Welfare Act* emphasize the child’s right to participate or contribute (§1-6) (Havnen et al. 2020: 18). In Norway, children over 7 years of age have the right to express their meanings, perceptions, and opinions (Havnen et al. 2020: 8, 157). A promising tool for children’s participation in practice includes a process model by Skivenes and Strandbu which specifically addresses children’s participation in the context of NCWS, which includes: (1)

¹⁰ Five of ten County Social Welfare Boards began to offer this dialogue process four years ago (Andersen 2020).

¹¹ If children are to be placed outside of the home against the wishes of the parent(s), a proposal must be brought before the County Social Welfare Board (Christiansen and Anderssen: 2010).

¹² For more on participation of the child in child welfare services, see Archard and Skivenes (2009a); Archard and Skivenes (2009b); Havnen et al. (2020); Kosher and Ben-Arieh (2020); Skivenes and Strandbu (2004, 2006); Steinrem et al. (2018); Strandbu and Vis (2008); van Bijleveld, Dedding, and Bunders-Aelen (2015); Vis (2014); Vis, Holtan, and Thomas (2012); Vis and Thomas (2009).

information; (2) forming of opinions; (3) expressing opinions; (4) inclusion of opinions; (5) follow-up (Havnen et al. 2020: 34-35; Skivenes and Strandbu 2004, 2006; Strandbu and Vis 2008). In relation to the right of the child to be heard, Follesø and Mevik (2011) address the potentials of a participatory approach, with an appreciative attitude and understandings of dialogue inspired by Freire (2003) as equalizing measures between children and adults in NCWS. This is dependent on addressing individuals with the same respect “regardless of age, feelings, and understandings” where the experiences and opinions of children are taken seriously (Follesø and Mevik 2011: 110). Therefore, justice – from a child right’s perspective – may require participation from the child in terms of having that opportunity to express his or her understandings, preferences, and choices through verbal and non-verbal communication; this participation should take into consideration the child’s ethnic, religious, cultural, and linguistic background.¹³

This begs the larger question of who is the subject of justice? In social work discourse, the subject is often divided into three entities – the child(ren), the parent(s), and the family. For this chapter, we are primarily concerned with the interactions of the migrant family, although the voice of migrant parents have more representation within our chapter than the voices of children. Participatory parity has a focus on an individual’s ability to participate on par; in this way, we understand the family as comprised of individuals who, ideally, have the opportunity to participate as peers in social arrangements (for children, this is according to their age and maturity). In this way, our understanding is that three year old children would not participate as peers with their parents or child welfare practitioners, for example, but that migrant children and non-migrant children of the same age have equal possibilities for participation. While our focus is on the larger societal context of the institution of NCWS and the subject of justice being migrant families, it is important to consider how Fraser’s framework of social justice operates when the child or parent is the subject of justice; particularly, how the normative core of social justice – participatory parity – operates: (1) in the case of children of varying ages, (2) in the relationship between the child(ren) and parent(s), and (3) in the interactions between the child(ren) and NCWS. This is something which should be explored in further research, in dialogue with the current literature on participation of the child in NCWS.

The case of NCWS is compatible with the all-subjected principle (Fraser 2008a; Fraser 2008b; Fraser 2010; Fraser and Honneth 2003); that is, “all who are jointly subjected to a given governance structure have a moral standing as subjects of justice in relation to it” (Fraser 2008a: 411; Fraser 2008b: 96; Fraser 2010: 292-293). As the mandate of NCWS applies to all children who reside in Norway, regardless of their background, residency status, or citizenship, migrant families are subjected to the governing structure of NCWS and, thus, have relevant claims as subjects of justice in relation to it. In addition, Norway is a signatory of the Convention on the Rights of the Child and the Norwegian national legislation explicitly states that if there is conflict between the national legislation and the Convention on the Rights of the Child, that the Convention on the Rights of the Child will have precedence.¹⁴ The Convention grants the rights to each child

¹³ This definition of participation is established in §3 of the 2014 Regulations on Participation and Child’s Advocate (Norwegian: *Forskrift om medvirkning og tillitsperson*).

¹⁴ See the *Human Rights Act (Lov om styrking av menneskerettighetenes stilling i norsk rett (Menneskerettsloven))*, §2(4) and §3.

within a State's jurisdiction, "irrespective of the child's or his or her parent's or legal guardian's race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status" (Article 2). Therefore, regardless of legal status, migrants families have a well-established position as subjects of justice and claimants of rights in this case.

In examining the suitability of Fraser's theoretical approach to recognition, we suggest three particular areas a critical theory of recognition may be useful in regard to the social relations and processes in NCWS interactions with migrants, which will be further explored below.

Misrecognition as Institutionalized Subordination

How exactly does misrecognition occur through institutions – in rules, expectations, practices? According to Fraser, misrecognition occurs through many different modes – codified in formal law, institutionalized via government policies, administrative codes, or professional practice, or institutionalized *informally* in associational patterns, longstanding customs, and social practices; in each of these cases, "an institutionalized pattern of cultural value constitutes some social actors as less than full members of society and prevents them from participating as peers" (Olson 2008: 135-136). For example, the norms of parenting in Norway can create a "referential standard" by which migrant parents are evaluated (Fylkesnes, Iversen and Nygren 2018).

Misrecognition and status subordination occur when "institutionalized patterns of cultural value" exclude, make invisible, or constitute some actors as inferior or other (Fraser 2004: 129). Exactly what kinds of misrecognition do findings relating to NCWS indicate migrants may face? Not restricted to migrants, Blomberg et al.'s (2011: 42) findings indicate that a "considerable number of referrals" to NCWS tend to be related to "a more general concern about the child's living conditions and a rather low number of referrals concerning abuse and physical neglect". In addition, there is a risk for families with a lower socio-economic status or income to be pathologized: for example, in NCWS, Kojan (2011) has found that in lower income families the family is often problematized, while in higher income families it is often the child who is problematized. For families living in poverty, social workers tend to focus on personal flaws and individual failures (Korzeniewska et al. 2019; Ylvisaker, Rugkåsa and Eide 2015). This may relate to child welfare practitioners comparing families to middle class norms (Vagli 2009). These economic factors are relevant as migrants are overrepresented in families with lower socio-economic status (Staer and Bjørknes 2015).

Another potential area for misrecognition includes normative understandings. Maboloc (2019) argues structural injustice may occur as a result of prejudices against certain groups which are reinforced through societal norms. Qureshi and Fauske (2010) and Qureshi (2009) find that NCWS's evaluation of the caring situation of children is influenced by dominant values and normative understandings about what is best for the child, relations between parents and children, and children's development. Anna used her own experiences of growing up in another country to reflect on cultural differences between the roles of parents and children and how this could create misunderstandings in Norway:

I see – and again because of my background – I see that in terms of expectations, there are lots of expectations on how much a child should do at home as opposed

to how much a parent should do, right? Who is responsible for what. Me as a child, I had responsibility for picking up the younger ones at school, the kindergarten all of the time. But here [in Norway], I mean, it is not really a child's duty, it's a parental duty to try and pick up the child... so there is a clear cut – how do I put it – roles here for what a child does as opposed to what a parent should do. So that is different. And for me, working where I do today [at NCWS], I see that and it is very clear really. There are different ways of bringing up a child, depending on where you come from. (Anna)

There are also cultural understandings relating to children's development which have a potential to create misunderstandings between migrant families and NCWS. When examining child development through a Norwegian normative framework, there are specific things that child welfare practitioners are expecting children to master by specific ages for what is perceived as "normal" development. Anna reflects on different understandings of child development, informed by her background:

Here [in Norway] it starts much earlier, you are free to go around, even as a child. Whereas other cultures, you know, they carry the baby until they are like ten months old. They are rarely on the floor. But it is not because they can't crawl, but just because you have to carry them, you still seem them as a baby. But here [in Norway], ten months already they are expected to follow this, and to do that, do that. So it is – for me it is very interesting to see the difference because of my background. I'm like yeah, but those kids that weren't able to crawl at ten months and all that – they are still doing fine. It is just a matter of what culture, or society you belong to really. (Anna)

The issue of difference in understanding relations between parents and children and children's development are linked to questions of objectivity, relativism, morality, and ethics. Bø's (2015) findings suggest that child welfare practitioners in Norway often lack awareness that their understandings – which inform interpretations in child welfare cases – are largely influenced by 'Western' ideology rather than a 'universal' understanding; "minority mothers could easily get the impression that their own views about their children's upbringing were disqualified by the Norwegian social workers" (Bø 2015: 570). Bø (2015: 572) argues "subjects like child welfare, social work and social policy are particularly saturated with ideology" and that "social workers ought to be able to identify the implicit perceptions of 'a good life' and 'good family conditions' that influence the viewpoints, policies and interventions of their own profession". How objectivity, relativism, morality, and ethics further relate to questions of recognition in the case of NCWS is an area which should be continue to be explored.

According to Wodak (2008: 60) institutional exclusion – that is, "deprivation of access through means of explicit or symbolic power" – is related to the normative nature of institutions, even when policies, procedures, regulations, objectives, mandates, and legal frames do not necessarily and formally empower them for such an outcome. In this way, institutional exclusion may occur despite policies which appear neutral (Wodak 2008). Occasionally, exclusion will not result from the institution's hard design or defined structure, but from its reiterated or habitual

social practice, despite its formal structure and policies. This is compatible with Fraser's understanding of misrecognition being institutionalized (Fraser 2000; Olson 2008). John, a migrant parent and translator, reiterated his concern about Norwegian norms being a guiding factor in NCWS' interactions with migrant families. From his experience as a translator, he perceived little room for cultural nuances in Norwegian legislation and practice:

In many ways, the principles in NCWS in theory are good, but in practice they can target different communities. It is very institutionalized. (John)

Recognition is appropriate in highlighting that institutions may relay misrecognition through practices which impede participatory parity for migrant families. We understand institutions as bodies which reinforce normative understandings, which may result in pathologizing certain groups. This can be further crystalized through the legislation which describes the mandate of NCWS. In the case of migrant interactions with NCWS, recognition may bring attention to the institutional nature of status subordination and highlight potential areas for improvement.

Equality, Sameness, and Difference in the Context of the Egalitarian Nordic Welfare State

The Nordic countries often characterize themselves as traditionally homogeneous in ethnic and political terms (Keskinen, Skaptadóttir and Toivanen 2019). This can mask significant political and constitutional differences within and between the Nordic nations (Forsberg and Kröger 2011; Langford and Schaffer 2015) as well as disguising past ethnic diversity (Keskinen, Skaptadóttir and Toivanen 2019; Osler and Lybæk 2014). Norwegian anthropologist Marianne Gullestad (2002a) argues that equality is often understood as sameness in Norway, which can result in inequalities for migrants.

'Immigrants' are asked to 'become Norwegian', at the same time as it is tacitly assumed that this is something they can never really achieve. 'They' are often criticized without much corresponding consideration of 'our' knowledge of 'their' traditions, or 'our' ability and willingness to reflect critically upon 'our' own. 'We' ('Norwegians'), are thus considered more advanced and hierarchically superior to 'them'. (Gullestad 2002a: 59)

From the outside, this may appear to be the result of a historically homogeneous national context; however, this perceived homogeneity has been the outcome of intense repression and assimilation policies of the Sámi and five national minorities in Norway (Gullestad 2002b; Keskinen, Skaptadóttir and Toivanen 2019). Gullestad (2002b) argues the thinking behind this assimilatory legacy persists with migrants, although not as obvious or extreme as previous policies. John was concerned about pressures for migrants to conform in the case of NCWS:

Here in Norway, people tell you that in Norway, we do it this way. It means that it is an assimilative system, even though in the regulation they take care of different cultures; but in practice, if you don't do it the Norwegian way, then you are the loser. It is silent assimilation... In institutions, it is assimilative. (John)

This presents the question of assimilation as a criterion for access to social services. Policies focused on migration and integration in Norway, pursued in the name of egalitarianism, may have unequal outcomes; “migrants face policies that are supposed to grant equal access to the welfare state, and the same time as they are expected to become “the same” as the prototypical Norwegian (that is, in accepting... specific forms of parenting...) in order to be recognized as equal” (Bendixsen, Bringslid and Vike 2018: 25). Lopez (2007) found that families with minority background interacting with the Family Welfare Services in Norway (Norwegian: *Familievernet*) experienced an indirect pressure to conform to Norwegian majority norms and ideals, where Norwegian understandings of problems and solutions were presented as superior.

In applying this to recognition and the case of NCWS, the context of egalitarianism and equality-as-sameness may be understood as partially informing institutionalized patterns of cultural value within NCWS, as institutions cannot be removed from the society they operate within. Related to Bø's (2015) findings of little awareness of child welfare practitioners regarding embedded ideology behind understandings in child welfare, Fylkesnes, Iversen and Nygren (2018) find that from the perspective of migrant parents, a hierarchy of knowledge exists in NCWS, where Norwegian culture and NCWS are presented as the “right way” and homeland practices or minority cultural practices are seen as the “wrong way”. Recognition can provide insights here, as the ideal of recognition is “a difference-friendly world, where assimilation to majority or dominant cultural norms is no longer the price of equal respect” (Fraser 2001: 21; Fraser and Honneth 2003: 7). Recognition, thus, may be suitable in highlighting the structural issue of access and assimilation in the case of egalitarian Norway.

Ahmed's (2014) notion of “civilizing” may also be relevant when reflecting on signs of migrants' misrecognition, where migrants are viewed by the receiving society from a position of cultural superiority and are perceived to be in need of instruction on “civilized” values. This process can contribute to the construction of the lower social position as ‘other’, thus evoking ideas of normality and pathology where the higher social position is seen as the norm and expressive of ‘the ideal’, while the other side may be seen as ‘deficient’ (Anthias 2001: 845). Within the context of NCWS, the findings of Johannesen and Appoh (2016) describe how African migrant parents in their study were aware that they were viewed as lacking in Norwegian parenting competence, which may relate to this perception of being in need of instruction on “civilized” values. John expressed how the perception of a homogenous Norwegian society may be related to notions of “civilizing”:

Norway is not a multicultural country yet – it is a multicultural country in the making. Here it is a homogenous society in perception. They have the perception of one culture and you have to in some way assimilate. Other cultures are not yet seen as developed. (John)

Equality, sameness, and difference is also related to the issue of navigating between universalism and cultural relativism – an issue which has gained plenty of attention in NCWS. To what extent should universalist policies, standards, and expectations be enforced on everyone equally and when should a more culturally relativist approach be taken? NCWS has been accused of both not being culturally relative enough *and* of allowing too much space for cultural difference (Bredal 2009;

Rugkåsa, Ylviksåker and Eide 2017). While NCWS should be aware of the dangers of cultural relativism in practice – highlighted by Zavirsek (2001) including allowing severe abuses to continue to occur because it is perceived as culturally normative – there is a general understanding that culturally competent social work practice accounts for difference (Pemberton 1999). This was emphasized in the narrative of Anna:

The challenge remains that we, as social workers, also have to try to understand that even if it is not Norwegian, or as long as they don't do the same as we do, doesn't mean it is wrong. Not everyone sits at the table when they eat. Some people sit on the ground when they eat; some people prefer to sit on the ground when they eat. Some people, it is not very common to show affection for the child in other ways, but here it is shown in another way – but you know, I think we have to try to accept the difference. (Anna)

The norm of participatory parity may be a suitable tool by which to try to navigate this tension between universalism and cultural relativism. In this way, practices may be distinguished between those which promote parity and those which do not. This is an insight which may be valuable to enhance a more culturally competent social work practice.

As mentioned earlier, we understand law to be essential in the quest for recognition and social justice. From the perspective of international human rights law, the issues of equality, sameness, and difference relate to minority rights. The application of minority rights to migrants has been a special challenge within international law. Especially in Europe, migration has often been associated with the idea of a threat to national and local cultures, whereas the value of multicultural societies has been rejected and challenged (Pentassuglia 2009; Morondo Taramundi 2018). Other than individual rights, minority rights often address a set of additional rights to which minorities' members may be entitled. One of the characteristics of cultural rights is that they may circumscribe the individual right to participate in one's culture, which adds a collective dimension to its character of individual rights. In this context, the range and applicability of human rights is limited when it comes to minorities rights and poses a threat to migrants' participation as peers.

The Dynamic Nature of Culture

Fraser's theory of recognition gives space for culture to be viewed as dynamic. She is critical of identity politics – the affirmation of group identities – in that she expresses concern that identity politics may often simplify and reify group identities while encouraging separatism and ignoring intragroup domination (Fraser 2000; Fraser and Honneth 2003; Olson 2008). Fraser argues that within identity politics, there is little room for cultural dissidence, experimentation, and cultural criticism (Olson 2008). As opposed to identity politics, “what requires recognition is not group-specific identity, but the status of individual group members as full partners in social interaction”, providing space for the dynamic nature of culture and not making assumptions that, for example, a child's culture is the same as his or her parents' or that a migrant's culture is unchanged from life in his or her home country (Fraser 2001: 24-25; Olson 2008: 134).

The narrative of Anna, a child welfare practitioner who grew up in a collectivist culture, highlights the dynamic nature of culture; she describes while working with migrant parents who also are used to more collectivist forms of life she points out the importance of integrating more individualistic aspects of decision making into their parenting as well. Anna highlights it is important for children living in a very individualistic Norway to learn to navigate the system here for their well-being, while still having that exposure and seeing the value in more collectivistic approaches. One of the five main issues child welfare practitioners described as multicultural social work in Norway, as described by Bø (2015), is cultural differences in parent-child relations. Regarding child-rearing practices, a tension between individualism and collectivism was articulated as a challenge in all six focus group interviews (Bø 2015: 566). A common theme for Ashley, a migrant parent, was trying to implement parenting aspects from both Norway and her home country:

In some way, I truly believe that I am trying to find this perfect middle between the Norwegian relaxed way and [home country] maybe too stressed. (Ashley)

This narrative highlights that culture is not a static entity for parents and that children may have a different culture than their parents. While a focus on group culture may reify difference, recognition gives space for culture to be dynamic and individuals to be different while still being treated with respect.

As previously mentioned, the dynamic nature of culture implies we cannot take for granted that children have the same culture as their parents. This may present challenges to some understandings of cultural competency or sensitivity, which may generalize characteristics of particular migrant groups. The importance of cultural competency is widely agreed upon in the literature as necessary, but skills needed for cultural competent practice are not clearly defined; therefore, participatory parity may provide a standard by which cultural diversity is recognized, individuals are represented within their culture – giving space for children to have different culture than their parents, and for culture to be dynamic – and where the voice of the individual can be heard while taking into account structural factors (Olson 2008).

Considering this dynamic nature of culture, recognition, and the quest for justice in human rights, tensions may arise regarding “the best interest of the child”. The UN Convention on the Rights of the Child follows the usual methodology set forth in the Universal Declaration of Human Rights and in the International Covenants on Human Rights. These instruments rely on the assumption that everyone is entitled to all the rights and freedoms without distinction of any kind (such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status). Such assumption aims at ensuring equal treatment to all children and a no discrimination policy, while protecting children’s identity, economic, social and cultural rights. The Norwegian *Child Welfare Act* has the ultimate goal to protect children that are living in conditions which may be harmful to their health and development, ensuring they are raised in a safe environment. The main principle concerning children protection is the “best interest of the child”, but amongst the principles of the child welfare system are also the protection of family ties, continuity in the child’s upbringing, and that children should grow up with their parents (UN 1989).

The principle of the “best interest of the child” does not appeal to other specific legal concepts and therefore leaves an open door to a vast array of interpretations. This is particularly relevant for cases in which the child may not entirely share her or his parent’s culture, values, behaviors, et cetera. This has been largely discussed under the label of “minorities within minorities” and the conflict of rights which may arise in such situations (collective versus individual rights) (Morondo Taramundi 2018; Wahlbeck 2016). A definition of the “best interest of the child”, under these circumstances, is a difficult task in a concrete situation. Morondo Taramundi mentions two types of “minorities within minorities”: one in which a certain group challenges and revises cultural norms within the minority group, and another in which a certain group tries to advance external interests. Only the second hypothesis, according to the author, poses the conflict between the collective right of the minority and the individual right to equality or freedom, given that the move towards external references constitutes an act of will towards a different cultural orientation than the one adopted by the minority group (Morondo Taramundi 2018). Nonetheless, the quest for justice in such situations may possibly become difficult to attain if the interests of the child are hardly made concrete by the child’s manifestation of intent. If assessing how oppressive and harmful specific cultures can be towards adults who can elaborate on feelings and perceptions is a very hard task – especially considering the complex nature of the concept of culture – how much harder it will be to do so when children’s perceptions, feelings, and best interests are at stake?

While recognition may be suitable for understanding aspects regarding the dynamic nature of culture, it may become murkier in regard to the “best interest of the child” – especially when considering “minorities within minorities”. In some cases participatory parity may serve as a tool by which to help navigate the “best interest”. This is an area which should be explored further, with consideration for the child as a subject of justice and participation of the child in interactions with NCWS.

The Importance of Redistribution and Representation

According to the latest OECD Economic Survey (OECD 2019), Norway has one of the highest standards of living in the world; at a glimpse, this may give an impression that migrants in Norway only suffer from misrecognition. This may entice one to neglect issues of distributive justice; however, a more careful examination into migrants living conditions in Norway and their interactions with NCWS seem to confirm the relevance of applying Fraser’s two-dimensional conception of justice premised on the norm of participatory parity. Fraser describes redistribution as related to class politics as well as socio-economic transformation regarding racial-ethnic injustice; in this way, (mal)distribution is “rooted in the economic structure of society” (Fraser and Honneth 2003: 12-13). Emma expresses her daily observations of economic differences between many Norwegian and migrant families:

Economic factors, you know, the difference in the financial aspect would – usually between the ethnic Norwegian family and an immigrant family is huge. And we know that economic stress impacts a family and... how they are able to meet their children’s needs. (Emma)

Many areas relating to redistribution are vital when considering migrant interactions with NCWS. According to Fauske, Kojan and Storhaug (2018), evidence supports that there are clear social

inequalities between families in NCWS and those who are not. This is substantiated by Staer and Bjørknes (2015: 31) whose findings suggest that an overrepresentation of migrants in NCWS is associated with migrant variations in socio-economic background. In Norway, children of a migrant background account for 53% of all children in low-income families (UN Committee on the Elimination of Racial Discrimination (UN CERD) 2017). Therefore, when addressing the need for redistribution, we are interested in the socio-economic status of migrants which is related to many issues including: that the unemployment rate for ethnic minorities is more than three times as high as the general population; that invitations to a job interview are 25% lower for persons with foreign names; and that people who may perceived to have a foreign background face discrimination in obtaining employment and receive lower salaries (UN CERD 2019).

Consequently, (mal)distribution plays a fundamental role when analyzing injustice in the interaction between migrant families and NCWS. Therefore, recognition in and of itself is limited in understanding the complicated relations between migrants and NCWS; however, when utilizing Fraser's theory on social justice considering both recognition and redistribution, a more comprehensive understanding may be acquired. Our understanding is that while misrecognition, discrimination, and racism are related to maldistribution, recognition and redistribution are not instances of and cannot be reduced to one another; both institutional misrecognition within NCWS and issues related to maldistribution affecting the socioeconomic status of migrants – related to rates of children living in low-income households, unemployment, additional difficulties in finding work, et cetera – are also necessary to be addressed in the quest for social justice. NCWS has the capacity to work in addressing some aspects of redistribution through services which provide economic assistance for families; trust becomes an important issue relating to NCWS and redistribution, as emphasized by John:

They [NCWS] have many activities helping single moms or single dads who have economic problems... The problem is that they [the parents] have this negative image and even if they [the family] need help they don't talk to NCWS because it is perceived as something dangerous, because maybe they will create a case and take my kids. (John)

In more recent works, Fraser also addresses representation as a third dimension of justice (Olson 2008). A third dimension of injustice occurs when individuals are “impeded from full participation by decision rules that deny them equal voice in public deliberations and democratic decision-making”, constituting political injustice or misrepresentation (Fraser 2008b: 60). As law plays an essential role in the quest for social justice, we will focus on representation in terms of the political participation of migrants who are over eighteen years of age. Child welfare legislation was described in the narratives as a factor which may reinforce or crystallize institutional misrecognition of migrants. We understand voting and political representation to influence the opportunities which migrants have in terms of politically influencing child welfare legislation.

Migrants have the right to vote in local elections in Norway after residing three years continuously on a visa which counts towards permanent residence and may vote in the federal elections only after acquiring Norwegian citizenship – a process which normally takes at least

seven years¹⁵. When it comes to political representation, migrants have low voting turnouts in Norway; in the 2019 local election, 45% of women with a migrant background from Africa, Asia, and Latin America voted, compared to 74% of women without a migrant background (Statistics Norway 2019b). In the last two federal elections, approximately 55% of Norwegian citizens with a migrant background voted, compared to 80% of Norwegian citizens without a migrant background (Statistics Norway 2019a). In this way, migrants are underrepresented voices within the Norwegian legal system, which impacts the legislation by which NCWS operates. Further, it appears migrants have been underrepresented in voicing comments relating to amendments of the *Child Welfare Act*. Considering the limitations of recognition, we argue that a critical theory of recognition becomes stronger when understood within a larger theory of social justice which accommodates issues of (mal)distribution and (mis)representation.

Conclusion

While the individual narratives shared in this chapter cannot be generalized in and of themselves, concerns expressed by international human rights monitoring mechanisms and adjustments to domestic legislation indicate the current interactions of NCWS with migrant families have room for improvement. Reforms to domestic legislation are promising in terms of increasing participatory parity for migrant families; the effects of these changes should be investigated in the future.

Here, our aim has been to explore the extent to which Fraser's approach to social justice – with a particular focus on recognition – may be suitable for providing insights regarding misrecognition of migrant families in NCWS. Overall, we argue recognition is suitable when considering misrecognition as institutionalized subordination; equality, sameness, and difference; and the dynamic nature of culture. However, we argue the concept of recognition is strengthened when understood as one dimension of social justice, in conjunction with redistribution and representation. In a quest for justice relating to migrant interactions with NCWS, Fraser's conception of justice – accommodating “claims for social equality and defensible claims for the recognition of difference” – seems to be a suitable tool through which to gain insights on understanding the need for change in this case (Fraser 2004: 126). Lifting the focus from individual practitioners, Fraser's approach emphasizes institutional and societal aspects of injustice. The role of societal power relations is an arena which should continue to be investigated in the quest for justice in migrant interactions with NCWS.

Considering human rights monitoring mechanism reports and other research regarding the status of migrants in Norway, the structural nature of injustice against migrants appears to be part of a larger trend that is not solely limited to the case of NCWS. This is connected to problems of misrecognition, maldistribution, and misrepresentation. Fraser's conception of social justice may provide insights that aim towards a more socially just world, including in the case of recognition in migrant interactions with NCWS.

¹⁵ See the *Norwegian Nationality Act (Lov om norsk statsborgerskap (statsborgerloven))*, Chapter 3 §7(e).

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