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# The Hidden Juvenile Justice System in Norway: A Journey Back in Time

BY KATHERINE VAN WORMER, PH.D.

*Education Director, Vangseter Treatment Center, Ingeberg, Norway*

*No one can be punished except after a judgment at law.  
—The Norwegian Constitution of 1814*

**N**ORWAY IS the model: Ask about health, child care, social equality, and Norway leads the world. Ask about juvenile justice, and much of the world leads Norway.

As a practicing social worker in Norway, I set out to discover progressive treatment of children in trouble by a progressive country. My journey at first led me nowhere, for I was told there was no mechanism for controlling young lawbreakers' behavior: This system was so progressive that there was no system at all.

Then some social workers from the "social office" introduced me to a world hidden far from public view, to a process that is punitive, arbitrary, and an instrument of social control. It is a process that has largely gone unexamined, either by foreign or native observers.

The information in this article is drawn from interviews with social workers, lawyers, police officers, parents whose children passed through the system but, above all, from firsthand observation of the official proceedings. Norwegian legal pamphlets and documents provided further information.

## *Within the Context of the Culture*

To grow up in Norway is to grow up loved and protected. Both parents play an active role in child care. Children are pushed in baby carriages and given bottles until they are quite large by American standards. Pressure on children is minimal. Children don't learn to read until they begin school at age seven. They keep the same teacher, who they call by first name, until age 12. There is no grading system before seventh grade, and homework requirements are slight. Corporal punishment of children has been outlawed at both school and home for years. All families receive child support for their children. In short, Norway is a child-oriented society.

Norwegians learn trust in people at an early age; this generalizes to trust in the system later on. Commentators include trust in the system as one of the striking Norwegian cultural characteristics (Stevens, 1987:9). The social system, in fact, is virtually without corruption. There is equality

and fairness across the board—for instance, all the children go to public schools.

Norway is a country characterized by a high degree of social and familial stability. There is very little social or geographical mobility in Norway; there is security "cradle to the grave." The crime rate is comparatively low.

## *The Juvenile Justice System*

There is no punishment for crimes in Norway for a child who is under 14 (age to be raised to 15 in January 1990). No special courts have been established with jurisdiction to try criminal cases against juvenile offenders. Older teenagers may be tried in ordinary courts of law and sentenced to prison (Royal Ministry of Justice, 1980:77). Sentences for most crimes, however, consist of only a suspended sentence or probation or several months in an open prison.

In practice, the public prosecutor, who represents the police, will transfer the juvenile cases directly to a division of the "social office," the *barnevern*—literally, child protection. Alternatively, the judge, after the trial, will refer the youth to the *barnevern*. Police evidence is turned over to the social workers, not for prosecution, but for "treatment."

The usual first step in "treatment" is that the *barnevern* takes emergency custody of the child and places the child in a juvenile institution called the *ungdomshjem* (literally, youth home). If the parents or guardians do not give consent, there will be a meeting of the *barnevernsnemnd* or child welfare committee. An attorney may represent the parents at this stage; there is no legal fee in serious cases. At the meeting, the *barnevernsnemnd* will hear the lawyer's and parents' arguments against the placement. The concern is not with evidence about the crimes but, rather, with appropriate treatment for the child.

These juvenile welfare boards, which became operational in 1953, are composed of five members elected by the municipal council for a period of 4 years (Royal Ministry of Justice, 1980). Most of the board members are women and, according to Benneche (1986), non-professionals serving in

position of limited prestige. The amount of prestige aside, the welfare board carries with it near absolute powers in cases to do with child custody.

The *barnevern* is most often associated in the public mind with handling of cases of child abuse and neglect. In such cases, the board will turn over custody of the children to the *barnevern* social workers who will place the child in a foster home or youth home. Once the custody is removed from the parents the burden of proof is on the parents to retain custody. Social workers in alcoholism treatment are well aware of numerous such cases of recovering alcoholics who, even after recovery, have been unable to retain custody of their children.

This article is concerned with cases which are a small minority of the sum total of cases dealt with by the *barnevern*—cases involving lawbreaking or so-called behavior difficulties in the child. Here it is not the parents' lack of care but the child's own behavior that is the subject of attention (Benneche, 1986:54). The *barnevern* thus functions as a central criminal/political organ for young lawbreakers. If the police are not entirely satisfied with the treatment accorded the offenders, they can prosecute the case within 1 year. There is no time limit, however, on the *barnevern*'s control except, as in America, that control is usually discontinued upon the child's 18th birthday.

The lack of legal safeguards in the system is reminiscent of the U.S. juvenile court prior to the *Gault* decision of 1967. America's juveniles were not then granted legal rights, because the court acted *parens patriae* "in the interests of the child." Today's *barnevernsmnd*, similarly, couches its legal dispositions in terms of the language of treatment and protection (Social Department, 1983:240). Meetings are informal with legalistic overtones. The powers of this body, as with the pre-*Gault* American juvenile court, are enormous. Children are readily sent away, yet there is no provision in law or custom to get them back. Care is ended when "there is no longer any satisfactory grounds for the measures" (*Lov om Barnevern*, No. 48).

In contrast to the American juvenile court, the Norwegian model is wholly social worker dominated. The function of the judge is to preside over the hearing and to maintain proper legal protocol, but it is the child welfare office which presents the evidence and recommendations and directs the course of the case. The committee of five lay persons who constitute the *barnevernsmnd* are advised by the child welfare office

well before the hearing of the "facts" of the case. Before the hearing, the youth will have been placed in a youth home or mental institution "on an emergency basis"; the parents' rights to custody will have already been terminated.

The process of the hearing itself is thus a mere formality after the fact. According to Benneche (1986:31), who researched this decision making process, there is an overwhelming unanimity among members of the board and between the board and social worker administrators. My personal impression at the hearings I attended was that all the arguments of the clients and of their lawyers "fell on deaf ears." The judge, more than once, cautioned the defense presentation "to be brief."

Proof of guilt brought before the committee will generally consist of a copy of the police report of offenses admitted by the accused and a school report written by the principal after he or she has been informed of the lawbreaking. Reports by the *barnevern*—appointed psychologist and social worker—are also included. The *barnevern*, in its statement, has summarized these reports from the point of view of its arguments (usually for placement). Otherwise, the reports are ignored.

The hearing itself is a far cry from standard courtroom procedure. The youth and his or her parents may address the board briefly. The attorney sums up the case for a return to the home. Expert witnesses may be called and questioned by the board concerning, for instance, their treatment recommendation.

Following the departure of the parties concerned, the *barnevern* office presents what amounts to "the case for the prosecution." There is no opportunity to rebut the testimony and no opportunity for cross-examination.

No transcript of the hearing is made. The *barnevern* provides a brief summary for the concerned parties. The decision concerning placement is provided separately. Placement in an institution is typically for an indefinite period ("intill videre"). No notice of the disposition of the matter is given to the press. This absence of public accountability may serve more to protect the social office than the child.

Children receive far harsher treatment than do adults for similar offenses. For instance, for a young adult first offender the typical penalty for thievery is a suspended sentence (Bratholm, 1980:590). A child, however, may languish in an institution for years for the same offense.

Requesting to be tried as an adult is no solution for avoiding severe penalties in Norway.

When a child is found guilty of a crime in a court of law, the judge will then turn the case over to the *barnevernsnemnd*.

As Bratholm (1980:403) points out, juvenile offenders rarely appear before the child welfare board with an attorney, and appeals of the *barnevern*'s decisions are rare also.

A *barnevern*'s first work ought to be to create the best possible childhood for all. However, the *barnevern* also has a control function in relation to both the parents and child, and the controller often feels a stronger duty to the community than to the parents and child (Benneche, 1986:29). The fact of institutionalization of children with behavior problems clearly reflects this social control function. This process has been going on for some time. Approximately half of the 8,174 children under care of the child welfare committee were placed outside the home and the other half placed under protective watch (Social Department, 1983:245).

### Placement of Children

The Lov om *Barnevern* (1987:5) or Law on Children's Protection, under section 16b, states that protection of a child under the age of 18 can be provided:

When the child, because of misdemeanors or other behavior shows such poor adjustment to the surroundings or community that special measures are required.

Benneche (1986) denounces the wording as imprecise and as failing to differentiate between legal offenses and "other behavior." In an official document by the *barnevern* of Hedmark County (July 1989), the following behavioral disturbances are drawn from a school report of a child who was also in legal difficulty: "lacking motivation and concentration, little cooperation, tendency to idealize and trivialize, lack of maturity." The conclusion reads:

One will therefore point out that aside from the lawbreaking also there is "other behavior" from the child's side that are grounds for worry. (The child's) behavior, as written in the report, shows poor adjustment to the community. The conclusion is thus that the conditions for placement in a juvenile home according to number 16b are allowed.

### The Juvenile Home

My visits to a typical youth home—*ungdomshjem*—revealed that such institutions have places for 8 to 10 children and employ a staff of up to 10. Residents are there for the remainder of their childhood for the offenses of running away from home, truancy, drug use, theft, and vandalism. The parents in most cases have agreed to the placement. According to the staff, the parents tend to be alcoholic and/or neglectful. Each county typically has one institution for younger children,

placed there because of deficiencies in the parents' care, and one institution for teenagers where placement is for a combination of reasons. These facilities are often located in a rural setting.

In contrast to the situation in American juvenile institutions which are much larger, the Norwegian youth homes do not have structured programs of any sort. The lack of organized recreational activity is surprising. Children attend local schools for educational or vocational training. The stigmatizing effect of entering a new school as a "reform school kid" is obvious.

The staff members, qualified as milieu therapists (a profession similar to social work), work on rotating shifts for 24-hour coverage. Although they do not engage in therapy with the residents, the therapists do try to reinforce desirable behavior.

The children are provided with generous allocations for clothing and recreation. They may purchase cameras, skis, and 10-speed bikes so that one child will not have more than another. One boy commented that they get a lot of expensive things but no love "as in a family."

Despite the legal ease with which the placement of troubled children may be accomplished, the scarcity of youth homes at least keeps the numbers of institutionalized children down to some extent. Unfortunately, the public reaction to a particular crime (based on press reports) plays an active role in determination of which juveniles get sent away and which ones do not. There is currently a national scandal highlighted in the Norwegian press concerning the absence of resources for the *barnevern* to intervene in cases of incest and abuse. Youthful offenders are often occupying beds that could best be used for acute family emergencies.

### Mental Institutions

In the terminology of the *barnevern*, the child may be given a treatment "offer." These offers cannot be refused. The entire family may be sent away for 1 month of psychological assessment. Or, more likely, the child may be sent away for a long period. The unlawful or disturbed behavior of the child itself is sufficient grounds for institutionalization. There is as little mental illness in these youth psychiatric institutions as there is in comparable places in the United States. The "medicalization of deviance" prevails in both countries.

Norwegian treatment in mental institutions is financed by the state, however, not by private insurance companies. And it may be given with or without parental consent. Norwegians, with

their greater trust of the experts than Americans have (Stevens:1987) and of the social system, have made no comparable outcry against sentencing children to psychiatric institutions as has been made in the United States.

### *Summary and Comment*

The Norwegian *barnevern* is a powerful body vested with the responsibility of child protection. When this department wishes to remove a child from the home, the child welfare committee is called into session. Then with a semblance of legal formality, the decision is put into effect. The child is placed outside the home "until further."

The lack of due process guaranteed in the Norwegian Constitution of 1814 is a situation pertaining to children in trouble with the law. The constitution states that there shall be no punishment for a crime without conviction in a court of law. By conceiving of the loss of freedom for a child as treatment rather than punishment, the right of *habeas corpus* is circumvented.

Children in Norway are being sent far away from home to juvenile institutions, often on the flimsiest of evidence. Because the whole process is behind closed doors, the public is not aware of the way individual cases are decided.

The system of justice for children accused of crimes or behavioral problems is therefore often very harsh in Norway. This is in sharp contrast to the criminal justice system in general, which is strikingly lenient. Where punishment is called treatment, however, the right of the state can almost become absolute. The fact that the state is represented by social work administrators creates a sharp ethical conflict for those whose first duty is to the client.

The oppression of children and of their parents under the guise of "care and protection" must come to an end. The condition of being a child, as a former Supreme Court Justice once stated, "does not justify a kangaroo court." The condition of being a child does not justify years of confinement where an adult, for the same offense, would receive a suspended sentence, if anything at all.

Social workers helped bring about this system in the first place. The system which set out to prevent child abuse has now become a key instrument of child abuse. The fault lies in the system itself, in a process which is inhumane, not in the individuals or profession involved. Social change will take place when social workers, as they are currently doing, examine and then accept the need for change. A relinquishing of power is paramount.

### *Recommendations for Legal Change in Norway*

1. Children's rights should begin at the police station. Children should be informed, in their parents' presence, of the right to an attorney and right *not* to answer questions.
  2. There must be no punishment for crimes without a trial as provided for in the Norwegian constitution.
  3. Children should not be given punishment under the name of treatment.
  4. Children should be kept at home, under supervision, where possible. Commitment to institutions should be for fixed periods of time. Decisions concerning disposition of the case should be made public for the child's protection.
  5. The child should not be caught up in two legal systems at once. Instead, one court, an independent juvenile or family court, should preside over the handling of the case. The judge should be a specialist in juvenile matters and possess sufficient financial resources for creative disposition of the case. Social work and probation services should be attached to this court.
  6. The child should be entitled to full constitutional rights, with some modifications on the grounds of age. These rights should include the right to hear the testimony concerning the offense and other evidence, the right of cross-examination of witnesses, the subsection of evidence to a legal finding of guilty or not guilty of the charges.
  7. The child should have a right to his or her own attorney where a conflict between the child's interests and parents' interests exists.
  8. The role of social workers should be in the area of treatment, not *prosecution* of cases.
  9. Abolish the *barnevernsnemnd* altogether. These committees of political appointees serve no useful purpose; their casual rulings are doing a great deal of harm.
- What we see in Norway today is a process of juvenile justice that has not changed substantially since the 1950's. Due to flaws within the system, including the lack of external controls, the best intentions of social workers "have gone awry." Where care and protection were intended, power and secrecy have prevailed. Juvenile justice in Norway today is the justice of America yesterday.
- Langaas (1986:26) looks from Norway to Minnesota, to a region similar in population size and ethnic heritage. The organization and flexibility of the Minnesota juvenile court system favorably

impress him. Perhaps this Minnesota model of corrections could be transported to Norway.

When change does take place in the juvenile arena, Norway, with its traditions of humanism and kindness to children, will lead the way. But, in the meantime, many children are suffering needlessly in the name of care and protection.

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