

## **The Making of the First Child Welfare and Juvenile Crime Acts in Finland 1897–1943**

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### **1 Statutory Law As A Milestone Of Modern Childhood**

Legislation is one of the most powerful instruments in protecting children and producing modern childhood. Child welfare and juvenile crime legislation are - among other things – significant milestones of modern childhood and youth. Legislation – including certain age limits – determines how children and the sphere of childhood are separated from adults and adulthood in nation states. In addition, through national legislation children, young people, families with children and their everyday life are connected with the regulating governmental body, where the state and public authorities increasingly define e.g. the norms of societal childhood and appropriate behavior for parents.

This article describes procedures leading to the establishing of the first Finnish Child Welfare Act (1936) and Juvenile Crime legislation (1940–43) during the first years of the 20<sup>th</sup> century. More particularly, this article discusses the changing interpretations of and societal reactions to juvenile crime as part of governing the minors. The first Nordic child welfare acts were enacted in Norway in 1896, Sweden in 1902 and Denmark in 1905. Finland was a late-comer. Even though similar efforts emerged at the turn of the 20<sup>th</sup> century in Finland, the first child welfare act was enacted as late as in 1936 and the first Juvenile Crime Act in 1940.

Thus, the making of the first child welfare act, and furthermore, the first juvenile crime act, took nearly forty years, from the very first parliamentary motion represented in 1897 to the final drafts in 1936 and 1940. During this period, child welfare and juvenile crime discourses and doctrines changed and the actors of the legislative processes varied. This article analyses the types of discursive changes that emerged within these legislative processes and asks why the child welfare and juvenile crime acts finally became what they are. Thus, the applied description is a historical and political analysis where the questions of childhood, youth, child welfare and juvenile crime are structured and restructured within the space of the constitutional state.

### **2 Analysing Legislative Work In Multilevel Time-Space Structures**

In the well-known histories of childhood (e.g. Ariès 1962; DeMause 1974), the historical change of childhood has been explored in light of the modernization narrative. Consequently, the change of childhood has been represented as a chronology, leading to the affirmative or critical conclusions, depending on the varying research objects, context, data and method. In this article, the generative mechanisms of modern childhood are explored within a frame of reference of multilevel historical time (Braudel 1980). The starting-point for the exploration is the notion that historical time and its movement are bound to human activity and changes in it. Time manifests itself at a different speed on the different levels of historical time. Change is the quickest on a surface of time and the slowest on the levels expressing a *longue durée* of time. The goal is to construct a certain spatial and temporal structure through the multilevel

frame where the different sides of the research object take their place, reflecting their temporal permanency (Giddens 1984). Furthermore, by exploring *sedimentation* between the levels we may focus on how the events on the surface of time gradually generate sedimentation on the other levels. The analysis of the *constitutive elements* is geared to the opposite direction: how the most sedimented and stable levels, such as long-term institutions, influence the events on surface. (Tuori 2000)

In this article, I will construct four analytical levels of historical time, which through the factors influence the provision of child welfare and juvenile crime acts: those of the discursive time, individual life-span, collective and institutional practice. The multi-level interpretation and the division of historical time form a transitive network of concepts (Danermark et al. 2002), of which I will explore the strategic conducting of actors within the enabling and constraining contexts. Firstly, on the discursive level of time, texts concerning child welfare and juvenile crime will be analyzed. The questions are: *how did the interpretations of crime change? What were the attributes of juvenile crime represented and how were they reacted to?* In this respect, this is a question of discourse analysis where texts not only represent the reality of juvenile crime but also position actors and construct relations between them (e.g. Fairclough 1992).

Secondly, on the level of individual life-span the questions are: *who were the individuals who wrote the legislative texts of juvenile crime, what sort of habitus did they have, and how did they influence the discourse of juvenile crime?* In other words, the intransitive actors written in and by legislative texts will be identified and, on the other hand, their habitus analyzed by reading legislative texts, contemporary analyses and other historical sources. According to Bourdieu (1984), habitus is a scheme of thoughts and operation models that structure individual's everyday life and moreover, it is bound to the economic class division of society. In addition to economic capital, class division generates cultural capital increasing both the capacity to manage and use cultural meanings encoded in the institutional settings and the dominant positions in social relations.

Third, on the collective level the questions are: *what were the relationships like between those who wrote the legislative texts and the social collectives of their time, and what sort of influence did the collective strategic action have on the discourse of juvenile crime within a certain societal context?* These relations were analyzed by paying attention to how collectives appear and disappear in the legislative practices, and what type of strategic action they have with respect to child welfare and juvenile crime issues.

Fourth, the repeating social practices form a basis for social relations emerging in time and space. In this respect, institutions (*longue durée*) are the most sedimented social practices. Furthermore, social practices as institutions – such as Parliament – are horizontally permanent and extensive in a way that allows the members of communities and societies implement them widely. On the level of institutions the questions are: *how did the national relationships and events constrain, but on the other hand, enable the strategic actions of persons and collectives in child welfare and juvenile crime legislative work?* Institutional structures, rules – such as the Parliamentary Act - conducting the legislative processes, and other informative historical sources concerning the national level changes were analyzed.

The primary data of the article include the documents of the Finnish legislative process. The documents are 1) the deliberations of committees, commissions and working groups, 2) during the period of Russian rule, bills presented by His Imperial Majesty and the Imperial

Senate, and following Finland's independence, bills presented by the cabinet of ministers, as well as 3) parliamentary documentations, including, among other things, the minutes of the gathering of the full assembly and senate committee reports. The data also contains 4) existing legislation published in Finland's statute book. The description is supplemented by various secondary sources.

### **3 Societal Context: Finnish 19<sup>th</sup> Century Society**

Pre-capitalist Finland was a hierarchical system constituted by four gentries where the lineages of individual defined his/her societal status. The Finnish system consisted of four gentries: the nobility and knighthood, the clergy, the citizenry and the yeomen. The four-dividend gentry worked as the justified user of legislative power. Privilege was confirmed in the Parliamentary Act as early as in 1617 and the noble gentry maintained its privilege in the Parliamentary Act of 1869. Suffrage concerned only five percent of the adult population in 1900. Women, the crofters, the hired men, the wenches and the leeches were both in principle and in practice excluded from suffrage. The division between the gentries and the others reflected the existing large-scale inequality between people. (Satka 1995; Pohjolainen 1988)

Significant legislative reforms were performed in Finland at the end of the 19<sup>th</sup> century. The system of legal protection and legal constraints for the changing of residence and free enterprise were gradually dissolved according to the claims of the economic liberalist enthusiasts. However, the capitalist method of production and the consequences of industrialization were criticized. Descriptions regarding the poor living conditions of the English industrial proletariat influenced the Finnish debate, and discussion concerning the dangers of capitalism, industrialism and urbanization began in the agrarian Finland long before industrialization and urbanization could even be spoken about. However, after the reforms were launched in the 1860s and 1870s, the pace of legislative changes faded out and the line of legal policy turned to perpetuating. (Kekkonen 1999; Jaakkola 1994, 71-73)

In addition to questions of industrialization and social problems, the 19<sup>th</sup> century was a remarkable turning point for scientific positivism, particularly natural science. This breakage generated mobilizing knowledge of human and human developmental sciences for criminal political purposes. The new criminological thinking and criminal political reform movements of the 1800s are often divided into two groups: *Italian positivist criminological school* and salient representatives such as Cesare Lombroso, Enrico Ferri and Raffaele Garofalo (See Ferri 1896; Garofalo 1890; Lombroso 1887) and the *Modern sociological criminological school* led by a German, Franz von Liszt. In Finland, the latter was more influential than the former. The German School criticized the classical criminological school and regarded its doctrine metaphysical, highlighted the use of empirical data, methods and results as the basis for criminal political decision-making, and insisted on more effective means against criminality. Furthermore, the German School highlighted curing offenders as the key goal of criminal sanctions, and effectiveness as the leading principle of sanctioning. (von Liszt 1920; see also Dahl 1985, 60; Harrikari 2004, 125-127; Lappi-Seppälä 2000, 21-25)

### **4 Starting Up The Legislative Work In 1897**

The factors leading to child protection activities are traditionally divided into the following: 1) circumstances, in which the children being brought up, are considered endangering, and 2) children's behavior that endangers her/his health or development. In Finland, the poor relief decrees of 1852 and 1879 defined the status and care of the neglected children. The aim of the Acts was to make the applying for poor relief difficult, and to strictly demarcate the groups eligible for care and support. The basic means of the poor relief were maintenance and

housing. Thus, “maintenance care” became the main caring form of the neglected children instead of “filing care”. Persons below the age of fifteen were defined “children” and the aims of the care, defined in the Act, were Christian upbringing and education. (Harrikari 2004a, 71–73; Pulma 1987, 96)

Societal reactions to children’s crimes were provided in the Penal Code of 1889, which replaced the “Evil Deed Roll” of 1734. According to the Penal Code, children aged 7-14 were to be corporally punished or placed in residential care if they committed an offence. The age of criminal liability was fifteen. The mitigated criminal justice sanctions were to be applied to young people aged 15-17. Penal Code and other criminal justice provisions, where the whole child population was separated from adults and defined as “under-aged”, came into force in 1894. Interestingly, the content of the parliamentary debate in 1888 stressed the question of rights to child discipline. The debate was between the traditional view, according to which the father had exclusive rights to discipline his own children, and the view, according to which society had the right to intervene in this relationship under certain circumstances. This was a breakthrough, with a shift from paternal authority towards societal childhood. Those behind this process of change were the classically inclined legal scholars of the day, who worked actively in the Finnish nationalistic movement. (Harrikari 2004a, 94–109)

At the end of the 19<sup>th</sup> century, European nation states began to shift child welfare activities from charity organizations to the public sector, since protecting children was now regarded as the key factor in crime prevention. Within this context the national criminal justice and philanthropic child protection were gradually combined. Governing children’s ill-mannered behavior as a pre-stage of criminal activity was now seen as the duty of public authorities in many Western countries. (E.g. Dahl 1985, 71, 87-99) In Finland, the semi-national “Association for Neglected Children” was founded in the 1870. The starting point of the Association was to intervene in children’s norm-breaking and disorderly behavior. In practice, the association took care of the neglected and orphan children. Moreover, care and protection were organized through several charity organizations. (Harrikari 2004b, 24-26).

With respect to child protection and children’s ill-mannered and criminal behavior, a lively discussion between four estates was undertaken in the Finnish Parliament in 1897. All four estates represented bills regarding child protection. They all agreed that too little attention had been paid to children’s moral care and education. The volume of institutions for the ill-mannered and neglected children was regarded too low, and it was suggested that the existing foreign models – especially the English ones – were to be adopted in Finland. The peasant estate suggested that national grants for visits abroad should be subsidized to those who intended to work as the heads of institutions.

The most enlightened comment was represented by Alexis Gripenberg, a noble man and the head of the Finnish prison administration. Gripenberg, who was relatively well versed in the international discussion and the new criminological thinking, represented his petitionary motion in the nobility estate on February 5<sup>th</sup> 1897. Gripenberg based his motion on the statistics on young people in prison and placed in reformatories, gathered by the prison administration authorities since 1882. The motions represented by the other estates were mainly based on the issues, concepts and statistics originally brought up by Gripenberg. According to Gripenberg, “in spite of the civilizing work among the citizens, the escalating brutality and moral degradation among the growing youth rear its head in the great and civilized nations”. The problems were most intense within the urban and industrialized areas, but “deprivation, and more particularly, avoiding work and the proclivity for loitering” could

be perceived among the rural youth as well. Hence, criminal political arguments were emphasized in the evoking of the Child Welfare Act. At the end of the 19<sup>th</sup> century criminal political discussion was dominated by the classical paradigm and the doctrine of free will. However, discussion was now formulated through statistics based on empirical findings, thus reflecting the new criminological thinking. (PM 9/1897; see also Harrikari 2004a, 131-133)

The report of the Economy Committee followed from the proposals of the estates (CR 1897: 17). According to the report, neglecting children's upbringing and moral care was a *societal danger* that was to be blocked by the society. The Economy Committee gathered all the estate proposals and decided to propose – according to the Nordic examples – setting a committee consisting of experts. The aim of the committee was to explore and pronounce on, 'how a decent rearing for morally neglected and ill-mannered children was to be organized by the state'. From the grounds of the proposal, the Senate was to provide legislation and arrange the other necessary operations. The proposals progressed leisurely and the establishing of the committee took nearly five years.

### **5 The First Child Welfare Committee 1902-1905**

The report of the first child protection was completed in 1905 (CR 1905 9a; 9b) and it was mainly written by the head of the committee, Mikael Soinen (Voipio 1944, 39-59). The work progressed slowly and the committee had constant difficulties in getting together, even if General Governor Nikolai Bobrikov asked the committee to hasten their work. The starting point of the committee – enacting the so called 'Coercive Rearing Act' – was based on protective thinking. In many ways the committee followed the Nordic examples invoked in the parliamentary discussions. Child Welfare Acts, based on the Doctrine of Social Defense, were enacted in Norway in 1896 and in Sweden in 1902 (Dahl 1985; Kumlien 1997). The Finnish committee was motivated by the new criminological doctrine emphasizing empirical knowledge and the more effective interventions in opposing criminality. The goal of the "Societal Rearing Act" was to *protect society*.

At the end of the 19<sup>th</sup> century causes leading to different types of problems were seen as individual in origin. For example, within the processes providing the Penal Code of 1889 children's crimes were believed to result from their weak or lacking will. However, individual level explanations coexisted now with new types of emphases. The negligence of children and insecurity during the early stage were believed to lead to disturbances in conduct, such as criminal behavior later in the course of life. Furthermore, even if Finland was an absolutely rural country at the beginning of the 20<sup>th</sup> century, the committee argued for necessary interventions according to the social conditions of the English working class and aspired to create an analogy to Finland. The most common causes for problems were children's environment, the nature of the locality, domestic circumstances, and education at school. The proposals of the committee were based on a survey directed at local vicars and elementary school teachers. According to the results, "problems found the most fruitful ground in the factory areas, suburbs and towns". (CR 1905: 9a, 5, 15, 26-54, 77)

The Committee constructed *the chronology of moral decay* where the children lacking societal rearing were divided into the neglected, the ill-mannered and the criminal children. Vicars and teachers were supposed to inform the committee of a neglected child, who might in default of moral upbringing become an ill-mannered child "although had not as yet evidenced an extensive ill-mannered behavior". Moreover, one was to be informed of children as an ill-mannered if they had "evidenced by their behavior such moral decay or more difficult ill-mannered behavior that they were in need of an applied rearing in order to grow

up decent citizens”. A difference between the ill-mannered and the criminal children was difficult to define. The ill-mannered child was understood as a potential criminal and it was possible that an offence conducted by the ill-mannered came to light or not. Thus, crime was understood as “randomness within randomness”. (CR 1905: 9a, 104-107)

Separating children from their parents and placing them in reformatories was suggested as the key expedient of “societal education” (yhteiskunnallinen kasvatus). The neglected children were to be placed in children’s homes and foster care, the ill-mannered to shelters and school colonies and the criminals to reformatories. The institutions for the ill-mannered were supposed to apply a family model adopted from the German *Das Rauhe Haus* -reformatory and the institutions for the criminal children a collective model, adopted from the Belgian *Ruyssselede* -reformatory. The institutions for the criminal children were suggested to differ from the institutions for the ill-mannered through their greater number of inspectors, more substantial buildings made of stone, stricter discipline reprimands and rigorous supervision. Institutions for the ill-mannered could be made of wood. (CR 1905: 9a, 183-185)

The committee suggested providing legislation for organizing societal education and establishing the National Central Agency of Protective Education. A Semi-national Association for unprotected children and reformatories subordinate to the Prison Administration were to be allied under the new central agency. The committee believed that reformatories lacked the professional and pedagogical know-how. Furthermore, the committee did not “want to sustain anything that associated the new agency to prison, prison administration or a label of punishment”. (CR 1905 9a, 121-122)

## **6 Promotion And Resistance Against Legislation 1905-1917**

The work of the committee did not lead to immediate legislative changes. There were several causes for fading the legislative work out on different levels of historical time. First, a claim to recognize children as a distinctive category and childhood as a separate phenomenon within traditional fields supporting social order and rank, such as the poor relief and the criminal justice, elicited resistance and authority contradictions. Both the professor of criminal justice, Allan Serlachius, and the poor relief inspector, Gustav Adolf Helsingius, regarded the discourses adopted by the committee valid, but resisted the idea of establishing a new agency, as this would lead to decrease in their authority. In addition, Helsingius found it hard to stand criticism directed at the inefficiency of the poor relief. (Serlachius 1905, 190-192; CR 1905: 9a, 55-110)

Second, since the parliamentary reform of 1906 the relations on the collective level of historical time, in other words, the relation between the political left and the conservatives, had come to a head in child welfare questions. The left-wing politicians criticized both the conservatives and the political right-wing, and they suggested that the greed of the bourgeoisie and the oppression of the working class generated the negligence of children and criminality later on. (See e.g. PM 76/1909) Moreover, after the reform all Parliaments were very short-lived and parliamentary elections were held every other year due these contradictions. Naturally, this hindered any long-term and target-oriented legislative work. (Harrikari 2004a, 143)

Third, the relation between the mother country, Russia, and the Grand Duchy of Finland conditioned the child welfare legislative work. In general, the national legislative work became more complicated, since the first period of oppression had begun after the February manifest in 1899 and ended in 1905. The end of the period was conditioned by the precarious

Russian circumstances, such as losing the war against Japan in 1904-1906. With respect to domestic politics, the period terminated with the general strike in 1905, reflecting the expression of the wide-scale societal disaffection. As a consequence, the emperor gave the so called the November manifest, in which the legislative circumstances preceding the period of oppression were restored in Finland. (Alapuro & Stenius 1989, 37-39; Kekkonen 1999, 36-43; Jussila 1996, 237-244)

However, these events had a remarkable impact on child welfare and juvenile crime discourses represented in the Parliament, as the privilege of the gentries and men was disestablished and the first women – most of them recruited from the lower social classes – were elected. Consequently, the following efforts for establishing the Child Welfare Act were conducted when the Swedish party MP, Jenny af Forselles, presented her petitionary motion in the Parliament in 1909 (PM 156/1909). After a wholesale discussion in the parliamentary plenary, the Parliament decided to apply to the senate for legislative means for providing “the general child act”. According to the Parliament, the mischievous and criminal behavior among young people was increasing regardless of increasing education. Moreover, the processes regarding young lawbreakers required particular attention in the Child Welfare Act. One of the problems was that the executive authority in cases of disciplining children and placing a child in reformatory was not defined well enough in the Penal Code of 1889. As a consequence, this task had fallen to the prosecutor and thus, the procedure in courts prosecuting a child for an offence did not differ from that of the adult one. The Parliament suggested that children had already been removed from court procedures in many countries and this practice should be applied in Finland as well. Moreover, legal procedures leading to public attention were to be avoided with crimes committed by children. (Bill 23/1909 II)

A bill for establishing the Child Welfare Act was finally shifted under the consideration of the senate, but it did not progress due to several administrative changes. Moreover, as World War I began at the same time, the Parliament gathered together no sooner than in 1917. Thus, the represented motions did not lead to governmental bills during the period of Finnish autonomy. (von Bonsdorff 1927; Harrikari 2004a, 148-149; Piirainen 1974, 18)

## **7 The Children Of The Nation: From Social Defence Towards Child Welfare Since 1918**

Peace had remained in Finland throughout the whole 19<sup>th</sup> century. Social changes had been implemented by providing legislation and none of the social or political blocs had evoked open confrontations with the authorities. In this respect, class consciousness among the working class, combined with the status of the rural proletariat, led to changes. Finland declared itself independent as the result of the Russian revolution in 1917. In context of these events, “a void of power” emerged, leading to Civil War. The Civil War was a struggle of the Southern Finland, and the exceptional feature of the war was the rural proletariat’s wide support for the labor movement. After manifold phases, the war led to the establishing of the “white”, bourgeois Finland. (Alapuro & Stenius 1989, 46-49; Ylikangas 1999, 194-195)

Some parents, especially the mothers of “the red families”, were regarded as a key factor among the causes of the Civil War and for sustaining the legal order in “White Finland” in the future. “Red widows” were represented as the “monsters”, who poisoned the mental life of a child. If society did not intervene in the course of lives of these families, legal and social order would be endangered in the future again. Thus, the local child inspector’s supervision and guidance was directed at those who received poor relief allowances, for example. (Pulma 1987, 123-136; Satka 1994, 272-280) After the years of civil war, economic recession

permeated through the Finnish society. National regulation, the amount of thefts and children's begging increased. The question of child care for children whose parents had died, were in exile or in prison camps, was solved by placing these children in foster care and by establishing children's homes. Moreover, voluntary and charity organizations, e.g. Mannerheim League for Child Welfare, were very active in arranging children's circumstances. These organizations were quickly connected with the national machinery through state subsidies. (Pirainen 1974, 81-86; Sulkunen 1989, 72-88)

## **8 The Second Child Welfare Committee 1918-1921**

The most influential national child welfare project was launched in 1918 as the second child welfare committee was appointed "to consider how the state could efficiently promote a preventive child welfare work". The committee consisted of the elite and politically trusted members of the "White Finland" and it completed its report in 1921 (CR 1921: 15). The committee was led by a noble man, Adolf von Bonsdorff.

The starting point of the Committee of 1905 had been the idea of defending society but now, 15 years later, the Committee of 1921 turned this composition upside down. The task of the state was protecting children from the ruinous influences of social circumstances. Strengthening the moral and physical force of the young nation was formulated as the central goal of the national child welfare. The growing generations were now understood – following the nationalist ideology – as a resource that is to be invested in through protective measures. Since powerful increase of the population was regarded as "the lifeline of the young state", the protective measures were to be started by regulating natality and mortality. (CR 1921: 15, 6-7, 61-63)

The Committee constructed a system of positions for children, a system in which all the groups subordinate to the protective measures were defined. First, the division into judicial minors and majors, reflecting the internal relation between childhood and adulthood, was established. Minors were divided into children and young people, as the concept of puberty had emerged in the Finnish institutional practices since the 1910s. After this division, the Committee charted the minor's normal course of life and its chronological course through the societal institutions. On the opposite side, there were the abnormal phenomena during a course of life, which called for the normalizing measures arranged by the society. The scope of children subordinate to the protective measures was extended compared with the Committee of 1905, and the provisions earlier subordinate to education, poor relief and criminal justice child were to be shifted to the Child Welfare Act. The normalized groups were: 1) dependent children, 2) mentally retarded and "faulty" children, 3) truant children, 4) begging and vagrant children, 5) neglected and abused children or children subjected to the impulses of their depraved parents, 6) morally strayed minors and children who could not be corrected by domestic or educational rearing means, and finally 7) children who had committed an offence. (CR 1921: 15, 44-45, 52-178)

The Committee of 1905 had suggested that environmental factors and changes in them were part of the beginnings of a chronology of moral decay, turning to criminality later. The Committee of 1921 signified, in a parallel way, children's early labor, poor living conditions and inadequate care as *the exogenous* endangering factors:

*A frightening and increasing criminality among young people is usually a consequence of unsatisfactory protection. Crime and its consequences can be regarded as the epilogue in a*

*play, which an attentive eye-witness might see in cities, suburbs, and other similar circumstances. (CR 1921: 15, 8)*

However, changes can be located in the description of the model of *internal and endogenous* factors. *Degeneration*, believed to progress through the generations, became a central factor. It was suggested to emerge as nervousness among the first line, leading to neurosis among the second, to mental diseases, criminality, alcoholism and idiotism among the third line, and finally to death among the fourth generational line. (E.g. Harjula 1997, 115-161) Degeneration as an explanation was biological by nature, but it was considered to manifest itself by spineless temper, capriciousness, falsity, mental retardation, mental diseases and external abnormalities. According to the prevailing assumption, physical debility and mental incapability tended to be tied to each other and the basic debasement in family emerged in different ways. Degeneration was believed to lead to “psychopathy” that was now understood as the sickness of soul in need of accurate treatment. (CR 1921: 15, 120) The committee wrote:

*– – During the period of growth, an inadequate protection has weakened resistance from one line to another and gradually generated corrupted proclivities and the increasing accumulation of inheritable covenants. A circle has connected with another among the chain of the degraded members of society. Negligence has generated negligence, criminality has generated recidivism and misery has generated misery. Until lately, the approved means have roughly been anything else but hard labor or prison, at the best poor relief. Historically speaking, the care of these psychopaths and inheritable oppressed has become a question very late and still, to an abridged extent – – (CR 1921: 15, 7)*

The Committee suggested different types of protective interventions, each of them depending on the child group. With respect to the neglected children, the child welfare boards were obliged to change the parents’ behavior by giving them advice and trying to make them take their child to a “school home”. “Protective supervision”, aiming at supporting and supplementing parental care, was now formed as a new child welfare intervention. Skilled and correct “protective supervisor” was supposed to enforce parents to take care of the duties of rearing and supervising their children, to counsel them and above all, to follow and watch over the child’s living circumstances. Taking children in custody and placing them in the reformatory was regarded as a protective means *Ultima ratio*, a normalizing instrument that cannot be given up. In general, the Committee believed that if children’s “mental state or contagion” were not pathological to a large extent and could be cured, protective supervision or placing them in “school home”, or some other kind of institutional care would be an adequate means. The further the “depravity caused by degeneration progressed, the more unavoidable, but however lamentable, the medicinal and medical treatment’ was regarded a condition for cure. (CR 1921: 15, 78, 166)

## **9 The New Formulations Of Legislation Meet A Totalitarian Movement 1922–1932**

However, the proposals for the Child Welfare Act did not find their way to the Parliament, and not even the Governmental bill was drafted from the grounds of the Committee’s report. It was suggested that providing the Child Welfare Act would impose such economic obligations on the state, municipalities and employers that could not be fulfilled. Great expectations were directed at the Committee’s work and the disillusion caused by fading the act out was evident. Paradoxically, the most eager expectations in the Parliament were presented by the political left-wing, literally kept outside of compiling the report. After the Civil War, providing the act would have meant setting a “white” and “red” child on the same

line. Foundering the act was presented as a bourgeois strategy for strengthening the status of the “White Finland” and for oppressing the working population. Both the Communists and the Social Democrats outlined the necessity of the act in parliamentary discussion. Moreover, many other societal actors, e.g. the Finnish Society for Teachers, defended the necessity of the act in the public debate. (Plenum 1922, 311)

The proposal for the Child Welfare Act by the Legislative Council was finally given in the early 1925. The leading child welfare authorities, Adolf von Bonsdorff and Sulo Salmensaari, criticized the draft immediately. According to Salmensaari, the draft seemed to be “the duplicate of the Swedish Act”. The draft included “all the deficiencies of the Swedish Act but did not, however, contain the advantages of the act”. (von Bonsdorff 1926, 113-118; Salmensaari 1925, 67-68) Both authorities were evidently indignant about ignoring their expertise as the committee had explicitly hoped that the Legislative Council would hear the members of the Committee while drafting the proposal.

In April 1925, the Ministry of Social Affairs sent both the draft of the Legislative Council and the proposals of the Committee to all the county governors, local councilors and child welfare boards, asking them to make their statements. The critique of the leading authors was successful. The proposal of the Legislative Council was abandoned and, as a consequence, von Bonsdorff was given permission to formulate a new draft built upon the Committee’s work (von Bonsdorff 1927, 174). The draft was completed in 1927, but von Bonsdorff died the following year. The draft was formulated further in the Ministry of Social Affairs and finally Oskari Mantere’s government gave the bill for Child Welfare Act in 1929 (Bill 20/1929). The guidelines of the bill were based on the Committee of 1921’s report. However, the drafting of the Child Welfare Act was interrupted as the Parliament was dissolved in 1929. Radical and anticommunist right-wing *Lapua movement* questioned the whole system of presentation as a legitimate national institutional practice. As a consequence, the anti-communist legislation was enacted in 1929-1931. With respect to the Parliament, the aim of the movement was re-election, in which setting communist candidates would be forbidden. These efforts were conducted with a bang and the Socialist Labor Party disappeared from the map of parties during and after the election of 1930. (Kekkonen 1998, 66-73; Pihlajamäki 1991, 275)

### **10 Completing The First Finnish Child Welfare Act In 1932-1936**

Drafting the Child Welfare Act was pushed forward in the early 1932 as one male Social Democrat, Julius Ailio, represented a petitionary motion for enacting the act (PM 18/1932). From the grounds of the motion and invoking the reports of the Law Committee and the Finance Committee (CR 1932: 16), The Committee of Education and Culture (CR 1932: 4) stated that the previous bill given in 1929 was still mainly valid. Not even the prevailing economic recession could hinder the enactment as there was “a question about a far-reaching and wide-ranging protective activity directed at the growing youth”. “The results would be manifold related to the sacrificed resources”, the Committee highlighted.

In 1934, Toivo Kivimäki’s government gave a new bill for the Child Welfare Act, equivalent to the bill of 1929 (Bill 93/1934). Coordinating the scopes of child protection and criminal justice became one of the key questions in parliamentary proceedings, as the practices defined in the Penal Code of 1889 – corporal punishment and placing children in reformatory by court order – were still applied to children and young people. The government suggested that this provision would still remain in force, and this “competence conflict” was criticized e.g. by Bruno Sundström (Right-wing Nationalist Party, IKL). Sundström suggested that the court

would not have a right to intervene in children's criminal act when the Child Welfare Act was provided. (Plenum 1934, 1583-1585; see Act 1936/55)

For her part, Social Democrat Aino Lehtokoski reminded that their party had suggested in all their motions during the past 20-25 years that "crime aspect" is to be included in the act. Above all, she criticized the corporal punishment:

*This change suggests that corporal punishment would still be permissible. Somewhat the same theme had been included in two lessons of the Home Rearing Association I was listening to. It has been discussed on, how corporal punishment is necessary and how it is the best way for a real mother to evince loving care towards her children. I was not so keen on corporal punishment and that is the reason I passed the third lesson. However, now the government proposes a particular provision on the enforcement of verifiable corporal punishment when that type of a slip comes to a question – – (Plenum 1934, 1585)*

Furthermore, the plenary session included discussion on which of the parliamentary committees would be entitled to appraise the bill. The female Social Democrats suggested that the bill was to be considered by the Committee of Education and Culture, including several experienced women in child care issues. However, the Speaker's Council suggested the Law and Finance Committee, which consisted mainly of the male right-wing and conservatives. As a consequence of polling, the latter appraised the bill and the report was completed on April 2<sup>nd</sup> in 1935. (CR 1935: 2; Plenum 1934, 1583-86, 1617-1618)

After the first plenary proceeding the bill was shifted to the Grand Committee (CR 1935: 53). The Committee suggested that criminal justice legislation related to children and young people has to be taken under consideration in future. The second plenary session – the fervent one - was performed on October 1<sup>st</sup> in 1935. The other part of the exchange was female Social Democrat Anna Huotari, who had advocated the poor people already after the parliamentary reform of 1906 and was imprisoned during the civil war. The other part was Elias Simojoki, a pastor and an MP of IKL. Huotari stressed that providing Child Welfare Act would mean, in particular, providing a poor child with equal protection:

*– – While exploring a long trudge, a trudge of children's suffering where they have through these years been obliged to sacrifice their body to the happiness of those in power and false gods. Even today the child of the poor is sacrificed to wrong prejudices and viewpoints, lack of judgment etc. It would be delightful if this act would open eyes and make it understandable for the more fortunate that even the child of the poor is human – – (Plenum 1935, 1466)*

For his part Simojoki, a member of the Law and Finance Committee, represented the dissenting judgments. He supposed that the obligation to establish or maintain child welfare institutions would be opposed by the municipalities. Simojoki stated:

*Providing compulsory education during the course of independence has already swallowed a billion and this has brought untenable economic difficulties to many municipalities, and especially now when poor relief expenses have monstrously increased due to the Great Depression. It is reasonable to be afraid that this act – as these types of welfare acts in general – will heavily constrain the autonomy of municipality and permit the state authorities to interfere in municipal decision-making – – a limit of healthy and tolerable taxation has in most cases been crossed in municipalities and any additional strain cannot be tolerated – – (Plenum 1935, 1468-1469)*

Simojoki suggested that the provision in question would be excluded from the act and municipalities could decide themselves whether to establish or maintain child welfare institutions. This “ruffle of municipal expenses” was too much for Huotari. She stated that “it is now a little bit too much that a priest speaks here about wasting too much money on child care” and “it could be seen an old and an obsessive bourgeois viewpoint that the child of the poor is not human”, as Simojoki himself “grew up in a good home and was educated by the society”. Simojoki reflected that he does “not envy the poor children who were given the necessary care at elementary school”. According to Simojoki, “this care is the most important issue for the future of our nation” but he was afraid that “if municipal economies collapse, we will all be in need of poor relief”. Finally, Huotari’s viewpoint, following the Grand Committee’s viewpoint, became dominant and the provision was provided as an absolute. (Plenum 1935, 1468-1469)

The third plenary, where the new legislation was only formally confirmed, was conducted on 4.10.1935 (Plenum 1935, 1503). Legislation came into force from the beginning of 1937 and it mainly followed the guidelines of the Committee of 1921. Persons aged below 16 were defined “children”, and persons aged 16-17 “young people”. The phenomena generating child welfare measures were defined by the same categories as the Committee of 1921 had suggested. These measures were: 1) taking a case under consideration as a poor relief issue if the need of child protection is caused by the economic circumstances 2) warning the child in front of the board or by some other suitable way, 3) keeping the child among hobby activities or ordering her/him to an institution defined in the 7<sup>th</sup> section of the act, 4) setting the child to protective supervision or 5) taking the child in custody with the parents’ consent. Orphans and the dumped children who were in danger of missing care and rearing were to be taken in custody. (Act 1936/52)

### **11 Establishing Juvenile Crime Legislation 1937–1943**

Since the beginning of the 20<sup>th</sup> century, the reformatory program based on protecting children had been evident. The Child Welfare Act came into force in 1937 and the parliamentary discussion 1934–35 suggested that the relation between child welfare and the criminal sanction system was to be revised. During the year when the Child Welfare Act came into force, the courts judged 123 boys and 10 girls to reformatories, and 311 boys and 17 girls were ordered to face disciplinary measures. Thus, the Ministry of Justice appointed the committee in 1936 to prepare a proposal for reforming the provisions concerning young offenders.

Since the 1910s differentiating between childhood and youth was strengthened as Aksel Rafael Rosenqvist (1915) had treated – for the first time in the Finnish discussion – youth as a particular phase of life “when the carefree and nice enchantment of the childhood is over and we stand in the middle of the din and the surge of the sea of life”. Rosenqvist connected the beginning of youth with puberty. According to Rosenqvist, puberty is “a period of the early time of youth when, due to the certain internal and external changes in organs, sexual drives will awake”. (Rosenqvist 1915, 10) Consequently, the periods of puberty and youth were now located between childhood and adulthood. A specific knowledge concerning youth and adolescence was streamed into criminal and social policies. Whereas individual's will was thought to develop faster or slower, but at a linear rate at the end of 19<sup>th</sup> century, a greater likelihood of criminal acts than usual was now connected to youth, due to puberty.

The juvenile crime committee of 1937 was significantly influenced by knowledge of puberty and youth. The Committee formulated three chronological age categories: “childhood”, “the

age of 14-16” referring to puberty, and “the age until 23, when one’s personality finally begins to shape”, referring to youth and adolescence. The committee addressed the question regarding the age of criminal liability and experienced pressure to bring it in harmony with the new Child Welfare Act, in which “child” was defined as a person below the age of 16 and “young person” as someone aged 16-17. The committee defended the notion of keeping the age of 15 because e.g. “the youth, especially the agrarian one, develops later than the youth in Middle- or Southern Europe” due to differences in the climate.

Furthermore, the report of the committee was permeated with psychiatric knowledge as the keystone expert of the committee, Martti Kaila, was a psychiatrist and acted as the leading medical doctor in Finnish prisons. Psychiatric knowledge and the typologies of the German criminological school were combined in explaining juvenile crime:

*The first group consists of persons grown warped mainly due to the influence of disadvantageous external circumstances. The second group consists of persons who have committed an offence due to a temporary mental contradiction. Usually this type of individual commits a crime rather due to lack of understanding or consideration than malice or wickedness. The third group consists of young criminals, whose causes for committing crimes have been prenatal and permanent angularity of personality and divergence from the normal. The characteristics of these types of criminals are restlessness, agitation, precipitance, and weakness of personality, as well as easily arising disinclination and lack of all sense of responsibility. (CR 1937:2, 2-3)*

Aimo Kajander’s government gave the bill for Juvenile Crime Act in 1939. Establishing juvenile crime legislation passed off smoothly in the Parliament. It did not evoke similar emotional froths as providing the Child Welfare Act did a few years earlier. The age of criminal liability remained the same, 15 years of age, as it was the same in other Nordic countries and changing it would have led to increasing the amount of the authorities’ work. Disciplining and placing children in reformatory, based on the Penal Code of 1889, were removed and all the children below the age of 15 were shifted to the branch of child welfare authorities. Mitigated criminal sanctions were to be applied to “young people” aged 15-17 and several procedural applications such as personal history report and placing them in juvenile prison for “the young offenders” below the age of 21. (ACT 1940/262; ACT 1940/263)

## **12 The great child welfare project?**

The analysis suggests that starting in the 1920s the latest, there was a broad general consensus over the need to bring about child welfare, and further, juvenile crime legislation. It was generally believed that the passing of a child welfare act would automatically make a major improvement in the conditions of the child population. Early on the arguments for protecting children were, above all, related to criminal policy and one central standpoint was protecting society from children’s ill-mannered and norm-breaking behavior. The doctrine of protective and compulsive rearing created by the criminal political reform movement, where neglecting a child was seen to lead to norm-breaking behavior at a later stage in the course of life, found its way to the Finnish discussion through Norway and Sweden. The key actors in forming the Finnish juvenile crime discourse were the prestigious males recruited from the upper classes of the Finnish pre-modern society, e.g. Alexis Gripenberg, Mikael Soininen, Allan, Serlachius and Adolf von Bonsdorff.

Child Welfare Act, signified as a means of “defending society” during the early 20<sup>th</sup> century, was never provided. The child welfare discourse of the Committee of 1905 was regarded

valid as such. However, establishing a new national agency for governing child welfare generated conflict in respect to the older institutions sustaining social order, and the prestigious debaters recruited from those fields criticized those scenarios. In the Parliament, long span legislative work was hindered due to the culmination of political relations and short-term Parliaments. Within a wider national context, the unstable political situation in the mother country, Russia, had an impact on the legislative work and made it more difficult until Finland became independent in 1917. Even if the Child Welfare Act was not provided, the national child welfare was organized in many other ways. In front of the implementation and organizations of the Finnish practices and activities were home mission oriented clergies, in Norway the judicial scholars and in Sweden the elementary school teachers. The clergies brought the doctrine of societal, protective education along from their foreign study trips to Finland.

After the declaration of independence and the Civil War the legislative work was quickly launched, and protecting children from the external ill effects was now clearly set as the goal. Due to the Civil War and the reunion of the nation, the whole child population was regarded a national resource to be invested in for securing and increasing national vitality. The goals of the “whites” and the “reds” were combined as this project was completed in the 1940s. According to the conservatives' view, it was in the state's vital interest to protect its children. For the working class, whose views were championed by the female Social Democrats in the Finnish Parliament, child welfare legislation meant the equal treatment of "poor children".

Within party-political and gender frame, the female Social Democrats were the most active party in providing child welfare legislation, even if the first motions for providing the act were presented by the female Swedish Party representatives. Even though the right-wing wave traversed through the Finnish society and questioned the whole representative system in the 1930s, the Social Democrats believed in the parliamentary system and carrying out social reforms through it. Especially the female Social Democrats advocated child welfare and juvenile crime legislations. Since the first parliamentary election in 1907 to the 1940s Anna Huotari's visible contribution to establishing child welfare legislation is an excellent example of how the parliamentary reform of 1906 influenced child welfare discourse and the other levels of historical time. As the Parliamentary Act was reformed in 1906, the first female and lower class representatives were recruited to the Parliament. Huotari advocated visibly social questions and, in particular, the matters of the workers' children.

Since the first years of the 20<sup>th</sup> century, the position of the working class emerged as the central societal question of the era, which conditioned the way of speaking about juvenile crime. Crime was believed to stem not only from the weakness of will, but also from the insufficient welfare protection. In addition, starting in the 1920s, the decline of the family, degeneration, replaced the weakness of will as the primary model for explaining crime. Medicine, especially psychiatry, played a greater role in the questions of juvenile offending. At the same time, youth was seen as a specific phase of life and age group, involving a greater likelihood of criminal acts than with children and adults. During the weakness of will era the individual's will was thought to be developing faster or slower, but at a linear rate.

As a conclusion, we may ask whether we could speak about *the great child welfare project* at the beginning of the 20<sup>th</sup> century in Finland. The purposes of the legislative action was separating children from the scopes of poor relief and prison administration and to form an independent sphere of childhood knowledge and specialized professionals, reflecting the key principles of modern childhood. Legislation was finally provided as the interplay between the

different generative mechanisms of social activity. It seems that legislation was passed through when the conditions on all the four levels of historical time turned to favorable, forming a certain type of welfare complex. Moreover, being aware of the danger of anachronism, I would suggest that providing legislation 1897–1943 could be characterized as a “project”. It was quite in a blinkered way believed that providing child welfare and juvenile acts would automatically bring along improvement to children’s lives and circumstances, perhaps even solve fundamental and long-term societal problems. Nowadays we are well aware that this is not the case and that legislation is important but, after all, it is merely one instrument for promoting transformation in the nation states.

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