

Towards a 'non-indifferent' account of child protection

Dr. Damien W. Riggs

School of Psychology

The University of Adelaide

South Australia

Australia

5005

damien.riggs@adelaide.edu.au

This is an Author's Accepted Manuscript of an article published in *Australian Feminist*

Studies, 23, 375-388. Copyright Taylor and Francis,

DOI:10.1080/08164640802233310

Introduction

The provision of care to children whose biological parents are unable to adequately care for them represents a contested field in regard to both practice and social research in Australia. Media reports frequently provide examples of the dangerously abusive environments in which some children are currently living, and the equally toxic environments in which some children have been placed when removed from their birth parents. In response to such reports, state inquiries continue to be undertaken to investigate examples of abuse in care, and to provide directions for child protection practice. In regards to research, contestations over definitions of child abuse and protection (and indeed the category 'child' itself) highlight the shifting role that the social sciences have played in interpreting and constructing commonsense understandings of child welfare.

A recent review of child protection literature in Australia (Higgins et al. 2005) suggests that the majority of research in the field has involved qualitative studies that are primarily exploratory or descriptive in nature. It suggests that the bias towards such research is problematic as it provides limited generalisability and thus an inadequate 'evidence base' from which to propose changes to child protection policy. In contrast to this claim (though taking up the suggestion within the review that much of the literature is largely atheoretical), I suggest within this paper that what is required is not necessarily yet more research on child protection with 'large sample sizes' or 'multivariate analyses' or 'proof' of causality. Rather, what is needed is an approach to research that examines the problems inherent to child protection in Australia 'from the ground up'. This would provide clear policy directions that are

less to do with numbers, and more to do with the face validity of the accounts provided.

In order to elaborate such an approach, I utilise grounded theory informed by a feminist epistemology to examine issues of child protection in Australia. Taking an interview with two lesbian women who are the foster parents of a young girl as my starting place, I develop an account of child protection that draws upon the women's account of foster care (which was shared with me in the context of an interview between the three of us where we spoke of our experiences as foster carers living in same-sex relationships), and I connect this to relevant theorising on both child protection and community care. I utilise a grounded theory approach so as to acknowledge the pivotal role that the women's account has thus far played in both my own theorising as it informs the broader project on foster care in Australia that the data is drawn from. Intertwined with the women's account of child protection, I draw upon feminist theorizing on Levinas' concept of non-indifference as it applies to the care of those other than ourselves. By bringing together the women's narratives with an account of non-indifference I draw out implications that have clear applicability both to feminist theorising on child protection and to public policy surrounding foster care in Australia.

Project Background and Grounded Theory Approach

This paper draws on data from a broader project funded by the Australian Research Council examining the motivations people have to engage in foster care provision, and exploring means of increasing the pool of available foster carers through more

adequately engaging with the needs of carers. Thus far the project has involved analyses of existing public policy and supporting documents (Riggs, Augoustinos, and Delfabbro 2007), critiques of heterosexism within foster care systems (Riggs 2007a), and analyses of previous accounts of foster care provision in Australia (Riggs in press). Data have also been collected in the form of focus group and individual interviews with foster carers from across Australia, and it is from this pool of data that the present paper is drawn. It is important to state here that I myself identify as a white gay foster carer, and thus I bring to this paper my own experiences of foster care provision which inform the analysis that follows.

Recent feminist (e.g., Speer 2007), and specifically lesbian feminist (e.g., Clarke 2006, 2007) research has utilised case studies to elaborate specific issues about (for example) the experiences of transgendered patients and lesbian mothers. Such an approach to research is important as it provides a means through which to draw out the broad implications of particular discourses surrounding issues deemed to be of 'public concern', without individualising or stigmatising participants in the research process. Case studies, when viewed through a constructionist lens, are useful not as tools for pathologising or internalising the experiences of particular people, but rather they present one way in which to ground critiques of particular power relations in the everyday experiences of those people who find them oppressive. Such an approach is considered central to the present research which seeks to engage respectfully with the experiences and desires of foster carers, and to draw from such an engagement clear outcomes for public policy. Doing so without privileging so-called 'professional' knowledges over 'lay' knowledges is a key concern, as many foster carers, both within this project and beyond, have identified the devaluing of

carer knowledge as an extremely problematic aspect of foster care services across the board in Australia (Briggs and Broadhurst 2005).

I identified grounded theory as an appropriate tool for engaging with the voices of foster carers, and as a way to utilise their professional/experiential knowledge in conjunction with existing theories surrounding child protection. Despite not being a focus of the feminist research cited above, other previous researchers have suggested that whilst grounded theory is a methodology that espouses particular theoretical assumptions as to how to conduct research, it is not necessarily wedded to any particular epistemological position (Keddy, Sims, and Noerager Stern 1996). It has thus been suggested that grounded theory is well suited for use within a broad feminist epistemology, with particular attention paid to issues of State power under patriarchy as have long been elaborated within feminist theory (Kushner and Morrow 2003; Wuest 1995). Used in this way, grounded theory may be respectful of the accounts provided by individual people, whilst still connecting such accounts to broader discourses identified by the researcher as pertaining to the issue at hand.

In the following sections, I provide an account of how one particular interview conducted as part of the broader research project on foster carer motivation stimulated my interest in a particular approach to reconceptualising the provision of care to children. In the sections that follow I move between examining particular extracts from an interview with two lesbian foster carers, and extrapolating from these extracts particular theoretical insights that I then connect to existing research that I identified as pertaining to the women's elaborations of child protection. In this sense, the theory that I develop within this paper (as informed by a feminist

framework elaborated both by the participants and by myself) provides a clear account of how existing and developing theory can be utilised to provide clear policy directions for foster care provision in Australia.

It is important to note, as I did in the introduction, that an account of foster care as child protection praxis was very much central to the women's narrative of foster care, but that this narrative occurred in the context of a discussion whereby the three of us, as foster carers in same-sex relationships, talked about our shared experiences. I am thus mindful of my own role in the interactions reported here, and as a result subject my own voice within the interview to the same analytic scrutiny as the two women I was interviewing. Again, and as per a social constructionist approach to a grounded theory analysis, I am concerned with how an understanding of foster care was worked up in the interview between us *as three participants*. This is not to ignore the differences between us as researcher and participants, nor to equate the experiences of lesbian foster carers with those of a gay foster carer, but rather to acknowledge my own active role in the interaction between the three of us. Finally, it is important to note that whilst our identification as same-sex attracted foster carers very much shaped significant portions of the interview (and, of course, our lives as foster carers), my focus in this paper is less on heteronormativity within foster care, and more on an account of child protection.

Propriety and Foster Care Provision

One of the areas of focus that I brought with me into this research project was the intersection of child welfare and propriety or ownership in regard to children.

Feminist research has long identified the ways in which notions of ownership over children and families have functioned both historically and in the present to create and maintain the structural inequalities that exist under patriarchy (e.g., Nelson 1997, Somerville 2000). Whilst children are no longer legally considered the property of their fathers, issues of propriety continue to be played out in multiple forms in public policy and in the media. Included in this are 1) the continued construction of lesbian-headed families as ‘fatherless families’, and the implications of this for legal decisions about the status of sperm donors and the legitimacy accorded to lesbian mothers as parents (Clarke 2006, Kelly 2005); 2) recent moves towards 50/50 access for biological mothers and father post separation, which potentially disregards the existing relationships within families and instead prioritises the aforementioned tendency towards enforcing the involvement of biological fathers in children’s lives; and 3) the continuing prominence given to issues of biology in arbitrating children’s rights, something we see particularly in regards to foster care public policy and constructions of what constitutes a ‘real family’ (Riggs 2006a). Issues of propriety and biology are thus typically played out within the media in ways that privilege the nuclear family as the most appropriate site to raise children. In the context of foster care, however, the logic of propriety, whilst potentially shaping the engagement that some foster carers make with children in their care, may be less relevant to the experiences of other carers, particularly those attempting to engage in relationships with children that model alternate forms of adult-child relationships.

Both of the women I interviewed had extensive involvement with child welfare, both as workers and as carers, and voiced an active commitment to challenging public policy that normalises particular views of what constitutes adequate forms of child

protection, in addition to signalling their own commitment to engaging in non-proprietary relationships with the child in their care. In particular, the two women were critical of the ways in which the State often displays a proprietary relationship towards children who are identified as wards of the State, as demonstrated in the following extract:

Bette: When people know you have a foster child sometimes she becomes public property I find.

Mary: Around Christmas time some of the workers [in the child protection department in South Australia], particularly one of the supervisors, talks about our 'GOM' kids [children under the Guardianship of the Minister] or 'our kids', and yet we are the ones there to transport the kids. It annoys me.

Bette: That possession stuff gets my goat, no one should possess anyone.

Damien: It seems that it is not just an adversarial system, it is an ownership system, and one in which some people seem to want to claim children as their own.

Bette: That is certainly how we have experienced it.

In this interaction between the two women and myself we collectively work up an account of propriety that displays our varying understandings of claims to ownership of children within foster care. Bette opens the topic by stating that foster children sometimes 'become public property' when people become aware of information concerning a particular child's status as 'a foster child'. Her partner

Mary responds by providing an example of how particular social workers claim a proprietorial relationship to children that does not accord with the lived experiences of foster parents who often feel they shoulder considerable responsibility, with little in the way of recognition to accompany this (see Riggs, Augoustinos, and Delfabbro 2007 for more on this). Bette then states quite clearly that 'no one should possess anyone', to which I respond with a specific focus on how the foster care system appears to be one based on ownership, an opinion affirmed by Bette.

Our joint concern with issues of ownership is one that informs recent literature that is critical of the ways in which child protection laws function. Writing about the rhetoric of 'best interests of the child', Piper (2000) suggests that the inherently adversarial nature of child welfare systems means that children who are removed are often positioned as public property so that proprietorial claims over their psychological well being can be made to legitimate removal. Talking about the Australian child protection system, Scott (2006) suggests that the history of such systems in Australia have been marked by a move away from a primary concern with the physical abuse of children (with its attendant concern about the moral welfare of children), and toward a primary focus on psychological abuse. In this sense, forms of knowledge such as that provided by the discipline of psychology are at times used to warrant foster children as 'knowable objects' – they are constructed as very clearly marked by their abuse, thus positioning their removal as justified (Scott and Swain 2002).

It is important to consider, then, how children removed under the rubric of 'psychological abuse' are potentially subjected to further abuse when the terms of

our relationship with them is not shifted – when propriety continues to be centred as the appropriate way for adults to relate to children in their care. This point is highlighted in the following extract where the two women share their knowledge about the function of parenting orders in regard to propriety and the rights of birth families:

Bette: What you need to do is get in as an interested party – after four years of being with you, you can be recognised as an interested party.

Damien: I have heard of parenting orders and people have said they deal with interested parties and I have thought ‘oh that would be a way to have our relationship recognised’.

Mary: If it becomes child protection for whatever reason the State will step back in and of course you would be an interested party, but that is depending on your relationship with the birth parent or whether or not they are on or off the scene. I think it can be a risky business.

Prior to these three turns I had mentioned the idea of taking out parenting orders as a way of ensuring recognition for the relationships foster carers have with the children we care for, without attempting to use this to make proprietorial claims. Both of the women, however, reminded me that whilst being recognised as an ‘interested party’ may afford some form of legitimacy to foster parents and foster children, the sanctioning of these relationships only extends as far as a recognition of interest – it does not overwrite the claims of the State to children in its care, nor does it necessarily overwrite the claims of birth families. Both of the women thus reminded

me that actively seeking orders over children, whilst potentially being something that some foster carers desire, can not only put foster carers in conflict with the State, but can also ensure the perpetuation of a logic of propriety that may well be a 'risky business', as Mary suggests. In other words, foster carers may run the risk of appearing to be claiming a proprietorial investment when what is actually being sought is more simply a recognition of relationship, which, as I will elaborate further in this paper, may more productively be achieved in other ways. Importantly, whilst the securing of parenting orders may be largely considered a passive form of recognition (in that foster carers are reliant upon recognition from the State), other approaches to recognition may afford foster carers opportunities to actively engage in forms of non-proprietorial family making that nonetheless accords recognition to foster families.

When talking about the relationships between foster carers and children, then, it is important to consider how the possible need for family of both carers and children may not always coincide, or that the means for building family may not easily mesh. In her work on child removal, reunification and foster care, Ross (2004, 226) suggests that:

As much as children need to be taken care of, simple substitution of one paternalistic presence (the state) for another (the biological parent) is not sufficiently responsive to children's claims. Just as ... children's interests may diverge from those of their parents, so too may the interests of children diverge from the presumptions enunciated by the state.

Following the points raised by the two previous interview extracts, I would also add to this that children's needs may not always coincide with foster carer's needs for recognition. Acknowledging that an adult's need for validation may not match up with a child's need for security is an important point to elaborate. The two women with whom I spoke in this interview were very clear that meeting the needs of children in care may at times put foster carers in conflict not only with the State and birth families, but also with our own desires and beliefs. As I will elaborate in the following section, and taking the lead set by one of the women in the previous extract, what is required to counter propriety in foster care provision is a focus on child protection that is actually child focused in practice, rather than simply in rhetoric.

Child Protection as Social Justice

As the interview progressed, I asked the women to reflect with me upon their earlier statements about child protection, particularly as they elaborated it in ways that appeared fundamentally different to instances where issues of protection had previously been mentioned to me in other interviews or by social workers. The two women reiterated an approach to child protection that was less a paternalistic or maternalistic act of benevolence enacted under the guise that 'children are immature and need adults to save them', and more about an engagement with social justice wherein children's rights *as human rights* are seen as central to engaging with children in need of foster care. In this sense, a commitment to social justice was a commitment to engaging in a praxis that enacted the women's beliefs about particular social issues, namely those of child protection. In this sense, child

protection (as enacted within a framework of social justice) was less about ‘saving’ children who are ‘at risk’, and more about recognizing the responsibility that members of the broader Australian society potentially hold for meeting the needs of those groups of people who experience marginalization as a result of social inequity. In the following extract the three of us discussed issues of child protection and how we see them informing the practice of foster carers and social workers:

Bette: Advocating becomes a lot easier and clearer certainly in my mind when you keep child protection in your mind because every time they do say something you can say this is not about me, you are the child protection agency meant to be here for the child and keep them on that focus. That is what has kept me advocating quite clearly – it is not about me.

Damien: Often it makes me think that the workers I have had which are the best workers are not necessarily better than they should be: they are just the only ones who are child protection focused, but I hadn't realised that until you just said it. The best ones are the ones who are actually doing what they are supposed to be doing.

Mary: As she gets older, [the child we care for] will go to the youth things and their policy is to help the child exit [the foster care system]. I have seen so many kids exit foster care who weren't ready to do that but it is their policy.

Bette begins by highlighting quite clearly how some of the existing limitations in foster care policy and practice could be overcome through a focus not simply on the rhetoric of being ‘child focused’, but rather on an actual practice where some children are themselves viewed as potentially capable of elaborating their own

needs. Sorin and Galloway (2006) highlight this in their work on changing constructions of the category 'child'. They suggest that the ways in which we view children will shape how we engage with them (or alternately, attempt to manage them). They suggest that contradictions in the United Nation convention on the rights of the child are exemplified by the stated need to extend human rights to children, but that the attendant construction of children as requiring protection due to their 'immaturity and vulnerability' significantly undermines any view of children as humans in their own right, rather than always already as subsidiaries of parents and *their* rights. Of course not all children of all ages will be able to adequately determine and speak out about their needs, but it is even less likely this will be the case if children are *a priori* considered unable to play a role in determining their own needs. This is directly relevant to foster care systems, and in particular to social workers, who must find ways to balance their mandate to protect children with an engagement with what children are actually saying and asking for. As Mary elaborates, particular policies about children in care operate despite what children or their carers may see as being in their best interests. It is important to note that the voicing of these concerns *is* being increasingly engaged with by those directing foster care policy in Australia (and particularly in South Australia: e.g., Department for Families and Communities 2006), which highlights the central importance of listening to the voices of foster carers when they share thoughts about foster care systems.

When engaging with the theories and experiences of child protection put forth to me in this particular interview, I was lead to explore how an understanding of child protection as an enactment of social justice might inform a revisioning of foster care

provision. Reading feminist theorising on notions of care enabled me to develop an elaboration of the two women's account of child protection that I believe holds particular import for theorising within foster care. Beasley and Bacchi (2005), drawing on the work of Levinas, suggest that understandings of 'care' may be reconceptualised through an approach of 'non-indifference' towards those other than ourselves. Whilst they provide an important critique of the limitations of Levinas' work (and in particular the ways in which he relies too heavily on a particularly narrow account of care), Beasley and Bacchi's work nonetheless signals the importance of adopting a 'non-indifferent' approach to caring for others that takes as its starting point the contingency of the self upon the other. They suggest that considering the need for care of those other than ourselves must be a product of an acknowledgement of the ways in which our own identity as 'cared for' individuals is intimately enmeshed with those for whom we may not typically consider a duty of care over. They suggest that moral indifference towards the other is only possible if we deny how reliant we are upon those other than ourselves for our sense of self and location within the world (see also Butler 2004, Riggs 2006b).

Taking up this understanding of care as a 'non-indifferent' approach to others, and particularly in regards to the relationship between foster carers, birth families, and the children we care for, it is important to recognise that normative discourses of 'the family' are premised largely upon the juxtaposition of 'good families' with 'bad families'. In other words, not only are differing families placed in explicitly adversarial relationships with one another (as elaborated in the previous section), but those of us who are identified as 'good parents' or as living in 'good families' are implicitly reliant upon those who are identified as 'bad parents' living in 'bad

families'. Recognising the contingency of the former category upon the latter would be central to a 'non-indifferent' account of foster care provision that pays close attention to the ongoing politics of child placements.

In relation to child protection, then, an understanding of the responsibility that comes from a 'non-indifferent' approach that refuses or challenges moral binaries of worth as they pertain to families is one that focuses on a child's right to care that is the result of living in a social context whereby care is disproportionately distributed according to factors such as the socio-economic status, gender and race of their parents (Russell-Brown 2003). Again, such an approach would refuse a paternalistic engagement with children in need of care (and their families) that centres upon 'pity for the other' (which holds the potential to reify indifference towards those other than ourselves – 'I have done my duty and that is enough'), and instead focuses on how the privileges held by those of us who identify as white and middleclass are always already contingent upon the aforementioned differential distribution of social resources (Moreton-Robinson 2004, Riggs 2007b).

Further in regards to foster parents, an engagement with the concept of 'non-indifference' may help to engender forms of recognition that emphasise foster carers locatedness within a broader social context that at the very least promotes a concern about child protection. In other words, if foster carers are seen as engaged in the actual work of caring for children in a context of protection, then it is likely that this will result in forms of recognition that extend beyond the sanctioning of foster carers by the State. To acknowledge foster carers, at a national level, as engaged in the work of child protection, would be to shift attention away from a focus on individual

instances of child abuse, and towards a focus on the rights and needs of children to a safe living environment, and the role of foster carers (amongst others) in meeting this need. Recognition that emphasizes the meeting of needs and the family forms that this engenders may help to counter the dichotomisation of families into categories of 'good' and 'bad', and the role this plays in perpetuating disparities in family outcomes across Australia, whereby a failure to achieve particular normative family standards is typically marked as deviant. Whilst it is obviously the case that child removal will continue to be primarily considered the product of 'bad parenting', the promotion of non-indifference as a framework for understanding child protection may help to engender an understanding of the contexts within which a range of families live, the hardships that some families face, and the role of foster carers as one facet of a commitment to meeting the needs of children, some of which will be met by the ongoing role of birth parents and potential reunification with birth families.

A focus on non-indifference would of course also hold important implications not only for foster carers as family members, but also for social workers. A non-indifferent approach to social work may entail the elaboration of a working praxis that views a commitment to social justice as a significant component of the paid work of child protection. Certainly many social workers may already engage in such a praxis, but an educational and workplace commitment to ensuring ongoing awareness amongst social workers of current and changing factors that impact upon families (both biological and foster) may help to ensure this focus. This may involve encouraging social workers to understand their work practice as occurring in contexts where issues of child protection primarily result from a lack of social

support and a failure to meet the needs of particular families, parents and children, rather than primarily resulting from the pathology of individual people. Examining the often implicit comparison of 'good' and 'bad' families may enable an approach to social work practice that not only appreciates a more diverse range of family forms, but which is also committed to institutional change that enables families to achieve supportive relationships.

These points about a 'non-indifferent' engagement with families in crisis thus hold particular implications not only for how child protection is understood (as elaborated above), but also for how we understand the potentially conflicting rights of parents and their children. As I will suggest in the following section (drawing upon insights afforded by the two women I interviewed), an engagement with child protection that is informed by social justice and 'non-indifference' can potentially recast the conflicting needs of parents and children by recognising how a commitment to children's rights, and particular in relation to abuse, adheres to (rather than conflicts with) feminist analyses of women's location under patriarchy.

Women's Rights, Children's Rights

Talking about child protection in a social context where the rights of some groups of people are still largely inadequately recognised can make it difficult to engage in a critical examination of the negative ways in which one marginalised group's behaviours may impact upon another marginalised group. This is particularly the case when it is the behaviours of some women that negatively impact upon some children. Much like the difficulty of critiquing the rights of non-heterosexual people

when identifying oneself as non-heterosexual (Riggs 2006c), it can be difficult for women to speak out against the actions of other women. In the following extract the two women I interviewed managed to do just this by maintaining their focus on child protection as a practice of 'non-indifference'. They elaborate not only how the birth mother of their foster daughter was abusive, but also how the birth mother in turn was abused by the State, and how this could have been different. Their account manages to reconcile the difficulties inherent to critiquing the actions of those who are already marginalised, by maintaining a very clear focus on issues of child protection.

Mary: One of the major things that changed me was I had thought always up until [becoming a foster parent] that women should be able to keep their children and I now know that some women should not have their children back ... Not that I blame the mum or dad or whatever [for their child being in care] but there is usually a really good reason for it. It is not that the system is out to get the poor woman.

Damien: I too struggle with that because people say to me how lucky our foster child is to have us, because obviously he has 'bad parents'. I have had people ask 'why do they let [his birth mother] keep having babies – they should have sterilised her'. It is often hard to respond to such comments as whilst I come from similar place as you in thinking that it is a woman's right to do with her body and her life as she chooses, when then you encounter abuse it is hard to hold onto that faith because no one has the right to harm a child.

Bette: Something needs to be done here, because just having more and more kids is not going to do it. Kids go into care and the next one comes along and goes into care

too. [Our foster daughter's] birth mum was really manipulative and controlling, abusing and cruel.

Mary: That has changed my view around women and violence. I have worked in the area of violence for quite a while and I do find myself saying because there are quite a few of our workers who follow very much the line of you support the woman totally, but I am harsher with that way of thinking.

Damien: The response I try to say to people is 'look, if these mums or whoever had more support then they maybe wouldn't have more kids or they wouldn't abuse the children they do have' but I don't know how utopian that is to actually think that that is the answer.

Bette: With [our foster daughter's] birth mum, if someone had loved her when she was young she would have been an amazing intelligent woman – she wouldn't be an abusing parent. But there is a point where you are an adult and you say okay I am going to change my behaviour.

Mary: There is no doubt about that.

In this extract the two women and myself discuss the outcomes of parental abuse in ways that neither excuse it, nor divorce it from a particular social context in which abuse may be seen as perpetuated by particular forms of social exclusion. This echoes Scott's (2006) suggestion that child protection in nations such as Australia largely functions by coercively upholding the rights of children through the removal of children *once abuse has happened*, rather than spending more money and time

proactively supporting families *before crises occur*. Scott contrasts this with child protection programmes in Western Europe where, she suggests, the State uses its power to proactively support families.

In the particular narrative they provide, their foster daughter's birth mother clearly appears to not have been able to reconcile her own needs with those of her daughter, but this is not the only narrative that the women provide. Between us we also elaborate an understanding of how the State could have supported the birth mother to be 'an amazing intelligent woman' rather than an 'abusing parent'. In this sense, the two women are not indifferent to the birth mothers experiences – as reported to me throughout the interview, they made repeated attempts to support her and enable her to engage with her daughter in appropriate ways. Where they draw the line in this particular extract appears to have nothing to do with proprietorial claims over their foster daughter, or a desire necessarily to deny the birth mother's own experiences of abuse, but rather it occurs at the point where moral indifference (or active attempts at either pathologising 'bad mothers' or excusing abuse through recourse to notions of 'supporting women') become inappropriate responses to issues of child protection. When it seems clear that the birth mother is unable to 'change her behaviour', the matter clearly moves towards a focus on the child's needs, which are taken as paramount. Such an approach recognizes that whilst at times a child's needs may well be best met by having an ongoing relationship with their birth parents (a relationship that may not currently be supported by the State), this will not always warrant leaving children with their birth parents (as opposed to removing them into foster care).

Importantly, in our discussion the two women refused the categories of 'good parent/bad parent' by the ways in which they construct the narrative. Whilst, yes, they acknowledge the birth mother's abusive behaviours, they refuse to construct their narrative as centring upon *their* 'good parenting' (as opposed to the birth mother's 'bad parenting'). Rather, their focus is on the inherent rights and needs of the child, and their corresponding role in meeting those rights within a framework of social justice. As a result, whilst acknowledging the fact that if appropriate services were provided to many families in a proactive and timely manner then many instances of removal would be prevented, they nonetheless highlight instances where child removal is necessary (see Ross 2004, for more on this). In this sense, the issue becomes less about the potentially conflicting rights of birth parents and children, and more about the promotion of a child protection agenda where propriety or biology are largely irrelevant, and where children's needs are informed by a recognition of the reciprocity that is required to generate social justice.

The account provided by the women in this extract thus provides an explicitly feminist account of conflicts between the rights of birth mothers and children that nonetheless recognizes the potential distinctions between the two. The implicit focus upon issues of power under patriarchy affords the women the necessary space to look at the impact of the State upon the birth mother, and the impact of the birth mother upon the child, *as potentially separate issues*. The lives of both the child and the birth mother are impacted upon by the ways in which the State engages with the lives of women and children, yet this does not mean that women's and children's needs must be conflated. Whilst it is true that in the broader narrative provided by the women the State has not adequately supported either the child or the birth

mother, it has done so in different ways. For the child, this has involved not necessarily always prioritizing her needs, particularly when these may at times have been different to those of her birth mother. Focusing on the distinctions between children's and parent's right affords us opportunities to consider and challenge the potentially conflicting needs of these two groups, and to do so by examining their needs for care and social justice as potentially distinct and separate in certain instances, rather than always already mutually constituted.

To return to the notion of non-indifference, then, it may be possible to understand the relationships between foster parents, birth parents and foster children as ones that are at times forced into conflict as a result of the need to prove 'bad parenting' in order to warrant child removal. In other words, if foster carers are always already seen as a place of safety to which children are removed, then birth parents will always be necessarily depicted as 'failed parents'. Focusing on child protection (and the care of children and their needs more broadly) as an aspect of a commitment to social justice that is incumbent upon all people may help to shift attention away from a primary focus upon the reasons why children are in care (i.e., abuse), and towards a focus on children's needs. If children express or display a need for safety, and if this need can best be met by carers who are not their biological parents, then the development of a foster care system that is less about demonizing birth parents, and more about prioritizing children as citizens with a right to safety, may help shift the social burden placed upon families from which children are removed (see Scott 2006 for more on how child removal often results in the stigmatization of birth families). Placing birth and foster families in less adversarial relationships, through a commitment by all parties to non-indifference in regards to children, may

therefore help to foster working relationships between all involved in the lives of children living under threat of conflict or abuse.

Conclusions

The grounded theory approach I adopted in this paper (as informed by a feminist critique of families and propriety) was driven by the voices of the two women I interviewed and presented here in the broad format of a 'case study' of child protection. This was done to prioritise their central role as participants in the broader research project and the development of an account of child protection as a 'non-indifferent' approach. Working from the data up enables an understanding of the very real ways in which a feminist praxis can be utilized to provide direction for all working in the field of child protection, without making recourse to 'large sample sizes' or 'experimental designs'. Drawing upon the theories and experiences elaborated by the two women, and supplementing these with readings from feminist theory, allowed me to develop an understanding of the complexities of child protection in a context where the State may be seen as reinforcing particular paternalistic and proprietorial familial relations. Resisting notions of care that simplistically adopt such relationship forms is, I suggest, central to reformulating foster care systems in Australia in ways that recognize children's needs as potentially distinct from those of the state, those of birth parents, and potentially those of foster parents.

One of the ways in which this may be achieved, and as elaborated throughout this paper, is via the questioning of how notions of care currently function in relation to

notions of dependency. Currently, child protection is largely configured around normative notions of childhood, where figures of authority are deemed those best suited to determining children's needs. In this framework, child protection is about responding to the needs of children *as dependents*, the corollary being that the State and its agents are envisioned as the benefactor of all families. In contrast to this, and following Beasley and Bacchi (2005), notions of child protection may be usefully moved away from a sole focus on what the State can do for those who are marginalised, and towards a focus on how marginalisation is central to the functioning of the State. In other words, constructions of 'good' or 'bad' parents, and normative notions of dependency, do little to draw attention to how the State is dependent upon notions of beneficence to warrant its often coercive powers. Locating all people within relationships to one another that are configured via the norms of white middle-class able-bodied heterosexuality may serve as a reminder as to the contingency of all of our lives upon certain forms of sanction, and thus encourage consideration of social justice as a commitment to 'non-indifference' in the face of the other.

The theorising within this paper holds clear implications for foster care and child protection public policy. First is the need to develop 'ground up' approaches to developing new policies, with specific focus on the voices of foster carers and children. Such individuals hold unique knowledges that may greatly benefit those working in positions of authority, if heeded. Second, a 'non-indifferent' approach requires all of us working within the child protection sector to interrogate and reflect upon our own values and beliefs, and to question how we engage with the experiences of children. Maintaining a 'child focus' requires more than simply a

rhetorical emphasis on ‘listening to children’ – it also requires developing structures in which children are able to work as active contributors to the sector. Third, and as Scott and Swain (2002) note, it is important to ask of feminist theorising how the role of the State may potentially serve to further enshrine adversarial and power-laden approaches to social justice. Whilst feminist understandings of institutionalized violence have contributed significantly to understanding how patriarchy serves to legitimate the power accorded to men, there is nonetheless a continued need to develop responses to abuses of power that are less about ‘wresting power back’, and more about considering alternate means for negotiating social relationships. Finally, there is a need for ongoing theorising (with the goal of practical application) about how ‘care’ is conceptualised, and how discourses of ‘care’ are at times used to the disbenefit or harm of particular individuals. Otherwise, there is the great risk that the State will continue to mandate proprietorial relations between itself, those in its care, and those who provide that care, which will do very little to challenge the fundamental inequalities that structure access to support and parity under patriarchy.

Acknowledgements

I begin by acknowledging the sovereignty of the Kaurna people, the First Nations people upon whose land I live in Adelaide, South Australia. This research was supported by an ARC Discovery Grant, DP0666189. I would like to thank the two generous women who shared their experiences with me, the two reviewers whose comments helped to strengthen the paper, and Greg, Gary and Jayden for being such a wonderful family.

References

Beasley, Chris, and Bacchi, Carol. 2005. The political limits of 'care' in re-imagining interconnection/community and an ethical future. *Australian Feminist Studies* 20 (46): 49-64.

Briggs, Frieda, and Broadhurst, Donna. 2005. The abuse of foster carers in Australia. *Journal of the HEIA* 12: 25-35.

Clarke, Victoria. 2006. 'Gay men, gay men and more gay men': Traditional, liberal and critical perspectives on male role models in lesbian families. *Lesbian & Gay Psychology Review* 7: 19-35.

Clarke, Victoria. 2007. Men not included? A critical psychology analysis of lesbian families and male influence in child rearing. *Journal of GLBT Family Studies* 3.

Department for Families and Communities. 2006. *Keeping them safe – in our care: New directions action plan*. Adelaide: Government of South Australia. Available from www.dfc.sa.gov.au/newdirections (accessed 3 April 2007).

Higgins, Daryl J., Adams, Rennell M., Bromfield, Leah M., Richardson, Nicholas, and Aldana, Melissa S. 2005. *National audit of Australian child protection research 1995-2004*. Melbourne: Australian Institute of Family Studies.

Keddy, Barbara, Sims, Sharon L., and Noerager Stern, Phyllis. 1996. Grounded theory as feminist research methodology. *Journal of Advanced Nursing* 23: 448-453.

Kelly, Fiona. 2005. In search of a father: Sperm donors, lesbian-headed families, and the Re Patrick case. In *Sperm wars: The rights and wrongs of reproduction*, edited by Heather Grace Jones and Maggie Kirkman. Sydney: ABC Books.

Kushner, Kaysi E., and Morrow, Raymond. 2003. Grounded theory, feminist theory, critical theory: Towards theoretical triangulation. *Advances in Nursing Science* 26: 30-43.

Moreton-Robinson, Aileen. 2004. The possessive logic of patriarchal white sovereignty: The High Court and the Yorta Yorta decision. *Borderlands e-journal* 3. Available from <http://www.borderlandsejournal.adelaide.edu.au> (accessed 3 April 2007).

Nelson, Hilde L. 1997. *Feminism and families*. New York: Routledge.

Piper, Christine. 2000. Assumptions about children's best interests. *Journal of Social Welfare and Family Law* 22: 261-276.

Riggs, Damien W. 2006a. Developmentalism and the rhetoric of 'best interests of the child': Challenging heteronormative constructions of families and parenting. *Journal of GLBT Family Studies* 2: 87-112.

Riggs, Damien W. 2006b. Being undone. *Psychology of Women Section Review* 8: 19-21.

Riggs, Damien W. 2006c. *Priscilla, (white) queen of the desert: Queer rights/race privilege*. New York: Peter Lang.

Riggs, Damien W. 2007a. Re-assessing the foster care system: Examining the impact of heterosexism on lesbian and gay applicants. *Hypatia* 22: 192-212.

Riggs, Damien W. 2007b. On being 'acceptable': State sanction, race privilege, and lesbian and gay parents. *Reconstruction: Interdisciplinary Cultural Studies Journal* 7. Available from <http://reconstruction.eserver.org/071/riggs.shtml> (accessed 3 April 2007).

Riggs, Damien W. in press. White mothers, Indigenous children and the politics of voice. *Journal of the Association for Research on Mothering*.

Riggs, Damien W., Augoustinos, Martha, and Delfabbro, Paul H. 2007. 'Basically it's a recognition issue': Validating foster parent identities. *Family Matters* 76.

Ross, Catherine J. 2004. The tyranny of time: Vulnerable children, 'bad' mothers, and statutory deadlines in parental termination proceedings. *Virginia Journal of Social Policy and Law* 11: 176-228.

Russell-Brown, Sherrie K. 2003. Bridging the 'divide' between feminism and child protection using the discourse of international human rights. *ExpressO Preprint Series*. Working Paper 34. Available from <http://law.bepress.com/expresso/eps/34> (accessed 3 April 2007).

Scott, Dorothy. 2006. Towards a public health model of child protection in Australia. *Communities, Families and Children Australia* 1: 9-16.

Scott, Dorothy, and Swain, Shurlee. 2002. *Confronting cruelty: Historical perspectives on child protection in Australia*. Melbourne: Melbourne University Press.

Somerville, Jennifer. 2000. *Feminism and the family: Politics and society in the UK and USA*. New York: St. Martin's Press.

Sorin, Reesa, and Galloway, Greta. 2006. Constructs of childhood: Constructs of self. *Children Australia* 31: 12-21.

Speer, Susan. 2007. Gatekeeping gender: Some features of interactions between psychiatrists and transsexual patients. In *Out in psychology: Lesbian, gay, bisexual and transgender perspectives*, edited by Victoria Clarke and Elizabeth Peel. London: John Wiley.

Wuest, Judith. 1995. Feminist grounded theory: An exploration of the congruency and tensions between two traditions in knowledge discovery. *Qualitative Health Research* 5: 125-137.