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Listening to Children: A Childist Analysis of Children's Participation in Family Law Cases

Sarah Alminde

Department of Social Sciences and Business, Roskilde University, Universitetsvej 1, 4000 Roskilde, Denmark; sararas@ruc.dk

Abstract: Building on critical childhood studies and childism, this paper analyses children's participation in family law cases in Denmark. Spurred particularly by the UN Convention on the Rights of the Child, together with a general shift in the view on children, several jurisdictions, including Denmark, have implemented legislative reform in the last decades to accommodate children's participation rights. Even though such legal participation rights have increased, research in the family law field indicates that children's perspectives are often undermined or excluded. An analysis of qualitative data (workshops, observations, and interviews) establishes how the positioning of children and children's perspectives (as well as how "listening to children" is enacted) can be crucial to understanding the mechanisms that either subsidize or undermine children's perspectives in family law cases. The paper argues further that "listening emergent" to children can offer a path to deconstructing the norms and structures that undermine and exclude children's views—and thus offer a childist contribution to childhood research.

Keywords: childism; adultism; childhood studies; children's participation; divorce; parental separation; family law; emergent listening; agency

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1. Introduction

This paper analyzes the participation of children in family law cases through a childist lens, focusing particularly on the positioning of children as well as the possibilities and restraints regarding listening to children. Davies' (2014, 2015) concepts of listening-as-usual and emergent listening are proposed as a way to comprehend and elaborate on this, and further emergent listening to children as a way to challenge applicable norms and structures that privilege adult comprehensions and which position children and children's views as less significant and/or reliable.

Drawing on insights from childhood studies and the recognitions of children as competent agents who are both affected and affect their own lives and those of others, a substantial body of literature on children's participation has emerged (see e.g., Clark et al. 2005; Cockburn 2005; Kjørholt 2005). In recent years, however, new ideas and developments have challenged some of the basic assumptions in earlier childhood studies and pointed to new paths for childhood studies. Several of these new paths are grounded in the call for childhood studies to contribute to a broader comprehension—not only of children's lives but of society more generally (Alanen 2014; Gilliam and Gulløv 2022; Punch 2019; Warming 2022). Along these lines, Wall (2022) suggests a shift from childhood studies to childism as a critical re-conceptualization of research as well as societal norms, and thus a way to understand the marginalized position of children and the structures and norms that condition and shape it.

As with childhood studies, childism implies that children are included equally in research as well as society, and it involves a critical reconceptualization of them both. Childism places children's experiences in the center of social and scholarly critique and entails a social critique through which children are empowered (Biswas and Wall 2023).

This means that in addition to doing research on and with children in their own right, the fact that children have not historically been included equally in research and society—age thereby serving as an exclusion parameter—is an object of critical analysis.

Social understandings and practices have been dominated by adults and adult perspectives—and are thus rooted in "adultism" (Wall 2022). Adulthood is the norm—the desirable—and thereby the ideal against which children are measured. Sundhall (2017) describes adulthood as "naturalized" in the sense that it is perceived as the natural, norm-bearing, whereas childhood is seen as what separates it. Consequently, due to their not-yet-adult status, adult norms and the adult position limit children's participation and their possibilities to influence their own lives and the society around them. Childism represents a critical stand towards adultism and the way in which children's agency, children's views and social norms are "defined and structured in adultist or patriarchal ways that implicitly or overtly prioritize adult over child subjectivities" (Biswas et al. 2023).

Wall (2013) presents childism as an analogy to other -isms (e.g., feminism, womanism, postgenderism) and compares childism and the re-conceptualization of childhood studies implied in the shift from second- to third-wave feminism: from a focus on simple equality between men and women to instead re-conceptualizing and redefining the basic conditions upon which equality is based (Wall 2022). This implies a more radical re-orientation and re-figuration of the underlying norms and structures that condition the position of children. To do so, we must analyze how these norms and structures appear in and structure social interaction.

By analyzing family law cases, this paper focuses on an important and dilemma-filled arena for children's participation. Family law cases in Denmark are cases where separated parents disagree on parental responsibility/guardianship[1], the child's residence[2], and/or contact and time spent with the parents, and they therefore bring the matter to the judicial system. When handling this legal conflict, the judicial system is obliged by Danish legislation as well as the UN Convention on the Rights of the Child (CRC)[3] to ensure child participation in accordance with their age and maturity.

International research on the participation of children in family law has found that most children would like to participate and have their views considered in relation to their post-parental separation life (Butler et al. 2002; Cashmore 2011; Daly 2017; Smith et al. 2003). However, several studies have revealed that many children do not experience their participation as being sufficient or that their views have been given sufficient weight in decision-making processes (Cashmore and Parkinson 2007; Haugen 2010; Kaltenborn 2001). Moreover, numerous studies have established that parental separation can have a negative impact on children's lives and well-being (Amato 2000; Kelly 2000; Storksen et al. 2006), particularly in families with high conflict levels and difficulties reaching agreement, as is the case with family law cases (Furstenberg and Cherlin 1991; Hetherington and Stanley-Hagan 1999). Hence, family law cases are an important area for the study of child well-being and participation rights. This paper focusses on children's participation, albeit with an understanding of it being closely linked to child well-being in the sense that children's views are crucial when making the best decisions for their lives, thereby supporting their well-being (Warming 2011), and furthermore, taking the childist perspective that children and children's views are equal to others in the family law cases.

2. Materials and Methods

2.1. Data Collection

The analysis is based on a qualitative research project exploring family law cases in Denmark (Alminde 2021), which more specifically investigates how social interaction plays out between participants in family law cases and how this affects child participation. It does so by exploring how children's views are "becoming" in family law cases as well as the positioning of children and their perspectives.

The qualitative material consists of 21 family law cases processed In five different district courts in Denmark. The families' cases were followed closely, including observation

of court proceedings, child interviews, mediation and therapy sessions, and document analysis of casefiles, as well as narrative interviews with children and their parents in their homes. In eight of the cases, the interviews were repeated after 6–12 months. Two Future Workshops (Alminde and Warming 2020) with children from prior family law cases were also conducted, as well as group interviews with judges, child psychologists, and lawyers.

2.2. Analysis and Dissemination

After analyzing the 21 individual cases separately and comprising (Alminde 2021), the entire material was analyzed thematically. The material is analyzed with a focus on micro-level social interactions. Additionally, larger societal narratives are embedded in these narratives and interactions. The societal dimension is embedded in the individual, and insight into the societal is produced by analyzing the micro interactions (Mills 1959).

For the purpose of this paper, the analytical theme "listening to children" will be unfolded. The analysis is a theoretically informed thematic analysis drawing on the entire empirical material. To illustrate the theme and to exemplify the social interaction in the family law cases, the paper will unfold two specific cases, which have been strategically selected on the basis of being exemplary (Flyvbjerg 2006) in terms of illustrating the different modes of listening to children observed throughout the empirical material. In that sense, the selected cases illustrate both some general points and breadth in the empirical material together with contextual, case-specific points.

2.3. The Danish Context

As stated in the call for this special issue, Denmark and the other Nordic countries are characterized by high standards of living and political stability. In 2023, Denmark was ranked first with respect to adherence to the rule of law, human rights, access to justice, corruption, and authoritarianism[4]. Furthermore, Denmark and the other Nordics are seen as "excellent" when it comes to child policies and as first movers regarding children's rights.

Within the last decade, changes have been made to Danish legislation regulating the processing and resolution of family law disputes. The best interests of the child and children's participation rights are now more prominent in the legislation, and there has been a shift from a focus on a parent's right to their child toward the child's right to contact with both parents. There is now also strong emphasis on parental cooperation as the overarching ideal and, thus, conflict as something to be avoided. The number of children living with separated parents is around 26–27%. Subsequently, roughly one-third of all Danish children will experience parental separation during childhood. While most of these families settle the post-separation arrangement without interference or the involvement of a lawyer, an increasing number of families (30–40%) are in contact with the family law system. In these cases, approximately 47% of the children aged 6–17 participate in a child interview in relation to the case (Dahl 2020; Ottosen 2016; Ottosen and Stage 2011).

2.4. Ethical Considerations

The study complies with the ethical and integrity guidelines provided by the Danish Ministry of Education and Research and the Danish Social Science Research Council (Forskningsministeriet 2014; Statens Samfundsvidenskabelige Forskningsråd 2002). Among other things, this means that the children, parents, and professionals participating in the study have all given informed consent and have been informed of their right to withdraw their consent at any time. Only families where the child and both parents all consented to the child's participation were included in the study. Furthermore, the researcher continuously informed and asked for oral consent when attending anything involving the children and was particularly attentive to any non-verbal signs indicating the child's discomfort with the researcher's presence or an interest to withdraw. However, conducting research on conflictual and sensitive topics with families in vulnerable positions (Martins et al. 2018) demands further ethical considerations than general guidelines for research ethics require. A situated ethical approach was therefore applied (Heggen and Guillemin 2012). Situated

ethics takes the view that research is contextual and incorporated in the actual practice and social reality. Research with humans and social interaction will, thus, pose contextual ethical dilemmas and challenges that must be continuously noticed and considered. The research methods used have been carefully considered to be ethically mindful (Canosa et al. 2018; Warin 2011), attentive to the micro-ethical dimensions and ethically important moments (Guillemin and Gillam 2004), as well as continuously ethically reflective in handling the situated ethical dilemmas as they occurred. This also entails being ethically reflective in all phases of the research process, including the dissemination, which requires the anonymization of the participants; since full anonymization is rarely possible, however, only characteristics important for the analysis are included—and some specific, vulnerable extracts are excluded in the dissemination (for a thorough description of the ethical practice and dilemmas, see Alminde 2020, 2021).

3. Listening to Children as an Analytical Approach

3.1. A Relational Understanding of Children's Agency

Agency has been and remains a central concept in childhood studies. In the early days of childhood studies and the establishment of children as active social agents, agency was an important and central concept. Agency was initially conceptualized as something individual that agents (children) possess independent of structures and contexts. In the drive to underline children's agency, childhood studies took for granted that everyone has agency, which meant that they lost sight of how agency is something that emerges in interaction with the contexts in which children participate. In this light, recent efforts have been made toward re-conceptualizing agency as a more relational concept (Esser 2016; Esser et al. 2016). To shed light on the positioning of and listening to children in family law cases, this study draws upon such a relational understanding of agency, agency not being something that the children possess. Instead, agency is understood as shaped by the social processes in which the children take part. With this relational conceptualization of agency, the structures and positioning processes within which a child's agency and views emerge thus become crucial to understanding child participation in family law cases.

3.2. Listening-as-Usual and Emergent Listening

With this relational understanding of agency, the contexts in which children's views are 'becoming' are central to comprehending children's participation. Several scholars (Hart 1992; Lundy 2007; Shier 2001) have pointed out how child participation is more than just talking about or to children; it also entails creating possibilities for (all) children to participate and have influence.

Further along these lines, I suggest an analytical approach of dwelling on how children are listened to, to provide crucial insights into how children's agency and perspectives are shaped together with the possibilities and restraints on children's participation. Davies (2014, 2015) theorizes over listening to children by developing the concepts of listening-as-usual and emergent listening. The distinction between the two offers itself as a prospective concept for analyzing and understanding the interactions taking place in family law cases when adults set out to listen to children.

Inspired by her own fieldwork in a Reggio Emilio-inspired preschool in Sweden and drawing on a number of further sources—including the community in which she lives, literary sources and childhood memories, as well as the theoretical work of particularly Deleuze (1994), Bergson (1998), and Barad (2007)—Davies elaborates on the concept of listening and specifically listening to children. According to Davies (2014), listening is about being open to being affected and open to difference. And conversely, listening is therefore not about being bound by what you already know.

When engaging in what Davies terms 'listening-as-usual,' we tend to close down instead of opening up; we tend to look for ways to understand what we are hearing in relation to and within the framework of what we already know. "Listening-as-usual is listening that presumes it knows already what anyone might say or mean" (Davies 2015,

p. 1). This well-known and common mode of listening tends to hold things the same and—deliberately or not—uphold the normative order (Davies 2014).

Davies introduces the concept of emergent listening as a way of listening that opens up to difference and change. In Davies' terms, listening with all one's senses and being open to new and unexpected—even surprising—ways of understanding life and social relations. In so doing, emergent listening opens up new ways of knowing as well as being (Davies 2015).

Using Davies' conceptualization of listening to children as an analytical approach to children's participation in family law cases renders it possible to shed light on the mechanisms and structures framing children's views and their opportunities for participation. The article will thus be listening to children by analyzing the modes of listening in the family law cases as well as 'listening emergent' to the children in observations and interviews.

4. Analysis: Listening to Children in Family Law Cases

Both Danish legislation and the CRC state that children have the right to participation in family law cases and that their views (taking age and maturity into account) should be given weight. The right to participation as stated in article (12) of the CRC has, across jurisdictions and fields, proven difficult to implement in practice (McMellan and Tisdall 2020) and has been widely discussed and criticized for containing ambivalence towards children (Lee 1999; Tisdall 2018) and further criticized for not ensuring children's legal autonomy (Daly 2017). The installed ambiguousness towards children that lies in the "age and maturity criteria" is in itself based in adultist assumptions about children and leaves wide space for interpretation.

In line with this, the analysis in this study reveals variations in how children's participation right is interpreted and performed in practice. As also stated in the legislation, the professionals all aim to protect "the best interests of the child," and they are attentive to the legal participation obligations. However, the professionals interpret the meaning of participation differently. Consequently, in addition to legal and psychological professionalism, the implication of participation seems to be subjective and constrained by commonsensical assumptions about children and childhood rooted in norms and social discourses. This affects how the professionals engage in 'listening to children,' leaving the space for emergent listening somewhat narrow (Alminde 2021). A key finding across the material is that, when the professionals enter into listening to children, they are typically constrained by perceptions already constructed prior to meeting the child. These perceptions are shaped by the knowledge the professionals have of the case, the family and the child, societal discourses and norms, and legal and institutional structures. Across the material, it is clear that this means that the professionals listen after confirming these perceptions rather than challenging them.

The following sections introduce and analyze 2 of the 21 cases from the study, focusing specifically on the modes of listening together with the norms and structures that shape the listening. The first case serves as an example of the key finding that listening-as-usual is the dominating mode of listening in family law cases. This case analysis further illustrates how adults' comprehensions are privileged and the child's perspective, as a result, is delimited. The second case analysis exemplifies what can happen when professionals have the possibility to listen openly and emergently to the children. This case thus represents a rare occurrence in family law cases.

4.1. Listening to Josephine

The following section introduces 1 of the 21 cases, including extracts from the empirical material and analysis of the modes of listening. In this case, the dominant mode of listening is "listening-as-usual".

Ten-year-old Josephine has a younger brother, and they both live in an equally shared arrangement (seven days with their father, followed by seven days with their mother). Josephine's legal residence is with their father, her brother's residence with their mother.

Josephine's mother is unhappy with this arrangement and has therefore brought the residence issue before the court. She wants both children to legally reside with her, and she wants more time with both children. She argues in court that this is in the best interests of the children.

4.1.1. Court Proceedings

As is the practice in these cases[5], the parents and their lawyers are summoned to a court meeting with the judge and a child psychologist with a background in mediation. The purpose of the meeting is partly to inform the case and partly to explore the options in terms of getting the parents to reach an agreement, thereby making a legal judgement unnecessary. The children are absent. Josephine's parents disagree fundamentally and narrate very different stories of their children, their family life, divorce, each other, and their respective parenting skills.

In the meeting, which lasted more than two hours, the judge and psychologist repeatedly appeal to the parents to reach an agreement. During the breaks, they discuss the trustworthiness of the respective narratives and how the children must feel. In so doing, they draw upon their experience with similar cases and on the psychologist's professional knowledge of children. Toward the end of the meeting, the judge—informed by the psychologist and with reference to Josephine's age and the very different stories told by the parents—decides that Josephine should be called in to the court for a child interview.

4.1.2. The Child Interview

Josephine, the judge, and the psychologist are present at the child interview[6]. The psychologist dominates the conversation. At this point, he already has extensive knowledge about Josephine and her family, and the turn-taking in the conversation is initiated by questions from the psychologist drawing on this knowledge in what seems to be an attempt to falsify the parents' statements; for example, the parents have contested each other's parenting skills. Drawing on common conceptions of what constitutes a good parent and a good childhood, he asks about the general care provided by both parents, seeking to determine whether it is sufficient. He asks about bathing, tooth-brushing, rules, homework, etc., in the two households. Josephine replies: "the same" to all the questions.

Without being asked, Josephine herself states quite clearly that she wishes to spend more time in her fathers' home. The statement is acknowledged but not explored further in the interview.

4.1.3. The Settlement

Both in his report and in the court meeting that followed, the psychologist states that Josephine spoke during the child interview and responded "maturely and sensibly". He repeats her request to spend more time with her father, but underlines that the general care seems to be equally good in both households. The case ends with a settlement. With assistance from the judge and psychologist, the parents agree to maintain the current arrangement. While this is not coherent with the request put forward by Josephine, the psychologist and judge—again drawing on general knowledge of children and childhood—agree that as there is nothing wrong with either parent; it is in Josephine's best interest that the parents reach agreement on a settlement.

When Josephine is later interviewed as part of the study, she talks about her little brother's illness and how he and their mother have spent a lot of time together at the hospital, at which time Josephine was with their father. "I like Dad and he is the one I have spent the most time with while Oliver was at the hospital". She explains that she feels closest to her father. She also mentions how important her friends are to her, and that they live near her father. She repeats how she would like to spend more time in her father's home and that her mother gets mad at her when she says she wants to be more at her father's home. She also mentions how her mother lost the court case, which indicates

how, despite it being the main argument for the professionals to nudge the parents to reach a settlement, Josephine does not understand her parents as having reached an agreement.

4.2. Listening-as-Usual: Restraining the Becoming of Children's Perspectives

A fundamental premise in the judicial system is to seek the "true story". In practice, this means that the system works to inform the family law cases to make the best possible decisions, whether they be settlements or judgments, on the basis of the best-informed foundation. In Josephine's case, as is the case for the majority of children in the study, this means that she is positioned more as a "witness of the truth"—mainly called upon to clarify and falsify her parent's statements—and less as an important agent in her own right. This is reflected, for example, in how most of the child interview is spent asking Josephine questions about adult-determined topics, either in relation to the parents' statements or the professional's pre-knowledge. Furthermore, in the case of Josephine, the legal conflict is about her legal residence. The professionals thus find the matter of contact (how much time Josephine spends in the two households) of less importance, since it is not the legal twist that the parents have brought before the court. Consequently, they neither pursue nor further examine the leads that Josephine presents (i.e., her preferences). This illustrates another issue evident throughout the material: structures in the legal system render it difficult to pursue tracks other than the one already set out by the legal claims. How the professionals understand "the truth" in the legal matter thus means that the case and the interview with Josephine are restricted to being about a rather narrow legal matter (as opposed to Josephines life and views).

In Josephine's case and throughout the material, this tendency to, in Davies terms, listen-as-usual is evident. The professionals are interpreting the children's views on the background of what they already know about the case and their general understandings of children, childhood, and similar cases. When listening-as-usual, the professionals are searching for ways to press the children's views into an already set frame. They are thereby blocking the emergence of new understandings and new ways of seeing things, not least the particular situation of the individual child.

A childist lens thus makes clear how adult comprehension and adult perspectives on what constitutes a good life (together with what is relevant for the legal case) sets the precedent. Consequently, adult comprehension determines what is relevant for the case and, subsequently, what Josephine is allowed to contribute. This delimits Josephine's perspectives. Her perspectives are 'becoming' within a very narrow, adult-determined context, and the space and interest available to her to develop her perspectives is limited. She is measured up against an adultist scale on which she is judged as speaking and responding "maturely and sensibly". However, the perspectives explored in the case mainly evolve around the adult interpretations of what is at stake; rather than being a subject in her own right, she is positioned as a tool for determining an adult truth. The small approximations she makes to introduce another theme into the case—that she wants to spend more time living with her father—is deemed unimportant. As she later unfolds in the research interview, her reasons for wanting to do so are not examined. To protect Josephine's best interests, the professionals encourage the parents to reach an agreement. This is based on a substantial body of research pointing to parental conflict as negatively associated with children's development and wellbeing (Amato 2000; Glenn et al. 1992; Hetherington and Stanley-Hagan 1999). Thus, the professionals are trying to protect Josephine's best interests by lowering the level of conflict. However, this is based on a general (and research-based) assumption; Josephine's view on this is not considered. The analysis thus demonstrates how Josephine's agency and opportunities for participation are restrained by adult understandings and systemic structures. In her case, emergent listening would have involved opening up to let her perspectives unfold; opening up to let her perspectives affect the adults as well as the decisions made, even though they do not fit the legal and/or adult understandings of the case.

4.3. Listening to a Group of Four Siblings

The following section briefly presents another of the 21 cases, including extracts from the empirical material and analysis of the modes of listening. This case is selected due to the approaches to emergent listening.

This family is part of a pilot-project/experiment in which they participate in three therapeutic mediation sessions with two psychologists before proceeding to the court case. The legal conflict is parental responsibility/guardianship. The mother wants sole parental responsibility/guardianship The involved children are a group of four siblings aged 9–16 years.

4.3.1. The First Session

Even before the parents arrive at the first session, the psychologist has categorized the case based on the casefiles as being about a poorly functioning family and children with extensive problems. At this first meeting, where the children are not present, this initial perception is confirmed and developed further. Based on the parents' physical appearance and oral statements, the psychologists evaluate them (particularly the father) to be poorly functioning. On the basis of an interpretation of what this might mean for the children, they question whether it is worth working toward the father retaining partial parental responsibility/guardianship or even supporting the relationships between the father and children.

4.3.2. Talking to the Children

Both parents and the four children participate in the next session. The psychologist speaks with the children in pairs. The psychologist largely allows the children to lead the conversations; consequently, the conversation is not limited to adult-defined topics, and perspectives emerge that surprise the psychologist.

Once they are all together again, one psychologist says: "David would sometimes like to spend more time with his father (. . .) we also talked about Emma possibly being alone a little too much. One thing you agreed on is that you don't like it when the tone between your parents is too harsh—that it actually makes you sad".

The other psychologist adds: "You don't like it when your parents speak badly to and about each other (. . .) we also talked about the thing with parental responsibility:Ie two girls would actually like their parents to share parental responsibility. That makes you feel as if you have both parents".

In addition to the issues mentioned in the joint session, the children also commented on the problematic behavior of the mother's new partner and how they view their father as being the more balanced parent. The conversation with the children clearly challenged the psychologist's initial assumptions—having evaluated the father as problematic and the mother as the better parent.

4.3.3. Listening to the Children: Changing the Psychologist's Perception

Despite an initial problem-oriented conception of the family (the father in particular), the psychologist has been open to listening to the children and letting their perspectives impact the assessment of the case and the family. The children's narratives of the family and their situation have been opened up and given space in the conversations. The children's views have been given weight, and the psychologist's initial assessment has been challenged and consequently revised. In addition to "listening-as-usual," the psychologist has practiced emergent listening. This leads to the psychologist working toward maintaining shared parental responsibility and strengthening the relationships between the father and children.

4.4. Emergent Listening

As the description above illustrates, when adults are open to supporting the 'becoming' of children's perspectives and being affected by them, new understandings based on

these perspectives emerge. This emergent listening practice thus positions the children as important subjects and contributes to the creation of a space for developing and supporting the children's perspectives. The four siblings' perspectives ultimately have a strong impact on the case proceedings.

The case ends with a settlement that maintains shared parental responsibility. One important point is that, despite it being the same psychologists, the therapeutic room is different from the courtroom, and the absence of a judge is important. This means that it might be more apparent for the adults in the therapeutic and in some ways less restrained room to 'listen emergent' to children. Furthermore, the children are continuously reliant on the adults deeming their perspectives relevant. The adult position thus has the power to define what a worthy perspective is. This displays the inherent power structures between children and adults in family law cases. In the four-siblings case, for example, the children were very verbal, presenting easily understandable and recognizable narratives to the adults. Moreover, the children were still assessed as being worthy to be listened to on the basis of a positioning of them as representing a more pure and true narrative than those presented by their parents. The children are, to some extent, also positioned as "witnesses of the truth" in this case, and they falsify their parents' narratives. In that sense, the mode of listening could to some extent also be interpreted as listening-as-usual, emphasizing how the adult-centered norms and legal structures of the family law system restrain the emergent listening, child agency, and the 'becoming' of children's perspectives.

5. Discussion and Conclusions

Taking motivation from critical childhood studies and childism, this article has analyzed children's participation in family law cases in Denmark using Davies' concepts of listening-as-usual and emergent listening. The central argument is that ensuring the rights of children to participate in family law cases requires more than simply talking to them (Hart 1992; Lundy 2007; Shier 2001). It further requires creating possibilities for children's perspectives to 'become' within the context of family law cases and listening openly and emergently to the children. Further, children and their perspectives must be positioned as equal to adults; consequently, the structures and norms that hinder this must be critically assessed.

Across the empirical material and illustrated with the above case extracts and analysis, it becomes clear that when children participate in a child interview as part of a family law case in the Danish courts, listening-as-usual is the dominating mode of listening. There are glimpses of emergent listening, but it generally has difficult terms. The adult professionals listen in an attempt at fitting what the child says into what they already know (or the interpretation they have already formed of the case and the child). This means that the children's perspectives are becoming within a predefined framework that leaves little room for completely different perspectives to unfold. The study also shows that what adults perceive as important and relevant does not always align with what the children perceive as important. When "listening to fit in" instead of "listening to open up," less space is created for nuances and other perspectives from the children to 'become' and influence the case.

Drawing on childism and adultism, the analysis highlights the power structures in the family courts as privileging adult comprehension and undermining children's perspectives. Seen through a childist lens, the children and their perspectives not being given equal opportunity to 'become' and to influence the course of the family law case is tantamount to discrimination against children—discrimination in the sense that the adults and the adult position are regarded as more important and their views and interpretations as more important and reliable. This becomes evident when the adults assess the credibility and maturity of the children. When the children confirm the professionals' understandings and interpretations, they are seen as mature, credible, and worth listening to. Conversely, when they say something that does not fit with how the adults see things, the children

are positioned as unreliable and immature, and the professionals are less likely to let their perspectives influence the outcome of the case (Alminde 2021; Sundhall 2014).

Furthermore, by listening emergently and openly to the children and being open to how their perspectives are also important in their own rights (perhaps especially when they pull in a different direction than the adult-charted path), some of the norms and structures limiting children's position and equal influence in family law matters can be deconstructed. Listening emergently to children can thus be a path to the deconstruction of the norms and structures that undermine and exclude children's perspectives, and a childist contribution to childhood research.

A research methodological point to be made in that connection is that this likely requires a more distanced analytical gaze; it is not just about listening, but also about analyzing the modes of listening and the embedded positions and positioning together with the underlying norms and structures. In so doing (as has been done in this study), however, the ground is laid to deconstruct the general assumptions, norms, and structures that limit the position and equal influence of children in family law cases—and possibly also in society at large.

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Institutional Review Board Statement: Ethical approval was waived for this study. In accordance with a statement from Professor Jan Pries-Heje, the chair of the Research Ethics Committee (REC) at Roskilde University, Denmark (RUC), the study obeys the Danish law, since no ethical approval is required for this type of research project. Accordingly, no Danish authority exists, where approval could be obtained.

Informed Consent Statement: Informed consent was obtained from all subjects involved in the study.

Data Availability Statement: For ethical and privacy reason the data is not publicly available.

Conflicts of Interest: The author declares no conflicts of interest.

Notes

1 Parental responsibility/guardianship (DK: Forældremyndighed). Parental responsibility holders have the authority to decide important things regarding the child's life e.g., passport, school, and medical treatments. Since 2007, shared parental responsibility has been the point of departure in Denmark.

2 Residence (DK: bopæl) is where the child has their official address. The resident parent has the authority to decide day-to-day issues regarding the child e.g., daycare and leisure activities.

3 Denmark ratified the UN Convention in 1991.

4 https://worldjusticeproject.org/rule-of-law-index/global (accessed on 28 January 2024).

5 Based on the initial assessment together with the practice in the district court, family law cases brought before the court in Denmark can be processed according to different models. One of these (model A) is initiated with a meeting where a judge and psychologist will examine the possibilities for a settlement. It is possible to have one more mediating meeting before the case goes to trial. Model B likewise starts with a meeting but will then have a trial in immediate continuation. Model C goes straight to trial and is historically the most common way to process family law cases in Denmark.

6 And the researcher, who is seated on a chair in a corner of the room.

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