

Children in Custody Disputes: Matching Legal Proceedings to Problems: Book Review

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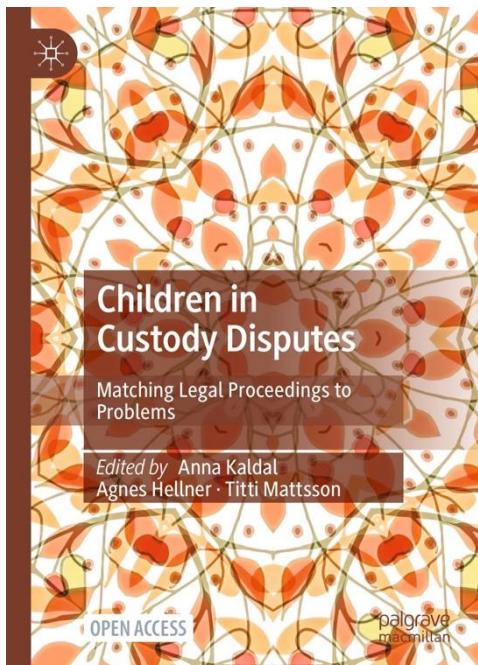
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Children in Custody Disputes: Matching Legal Proceedings to Problems by Anna Kaldal, Agnes Hellner and Titti Mattsson, 2024, pp. 221, p-ISBN. 978-3-031-46300-6, p-ISBN. 978-3-031-46303-7, link of the book: <https://doi.org/10.1007/978-3-031-46301-3>

Introduction

Children in Custody Disputes: Matching Legal Proceedings to Problems by Kaldal, Hellner, & Mattsson (2024) offers a comprehensive and interdisciplinary examination of how legal systems respond to conflicts over child custody, residence, and contact following parental separation. Bringing together scholars from law, social sciences, psychology, and procedural studies, the book addresses the growing recognition that custody disputes are not merely legal disagreements but complex social and emotional conflicts with profound consequences for children's wellbeing. The volume situates these disputes within contemporary legal frameworks influenced by children's rights, particularly the principles of the best interests of the child and the child's right to participation.



The book critically explores whether existing legal proceedings both in court and out of court are adequately equipped to address the underlying problems that characterize custody conflicts, such as high parental conflict, power imbalances, domestic violence, and concerns for children's physical and mental health. Drawing largely on Nordic experiences while maintaining clear international relevance, the contributors analyze mediation, alternative dispute resolution, judicial processes, and welfare interventions. The volume highlights tensions between traditional civil procedure and the need for more child-centred, preventive, and therapeutic approaches to resolving family disputes. By integrating theoretical perspectives with empirical research, this book advances the discussion on how custody disputes should be handled to minimize harm and promote sustainable outcomes for children and families. It challenges policymakers, legal practitioners, and researchers to rethink procedural design and to better align legal responses with the lived realities of children caught in parental conflict. As such, this volume serves as an important resource for anyone seeking to understand and improve the ways in which law engages with family conflict and children's rights in contemporary society.

Chapter 1, "Introduction: Matching Legal Proceedings to Problems in Custody Disputes," establishes the conceptual and normative foundation of the book by framing custody disputes not merely as legal conflicts but as complex social, emotional, and health-related problems that demand carefully tailored legal responses. The authors argue that traditional civil procedures are often ill-suited to address parental conflict, particularly where domestic violence, power imbalances, and children's mental and physical wellbeing are at stake, and they draw extensively on the principles of the UN Convention on the Rights of the Child, especially the best interests of the child and the right to participation. Using the Nordic legal context as a primary reference while emphasizing the global relevance of these challenges, the chapter offers a compelling and well-structured justification for rethinking both in-court and out-of-court custody dispute mechanisms. Its key strength lies in linking procedural law with empirical research on children's health, parental conflict, and long-term relational harm, thereby demonstrating the inadequacy of one-size-fits-all dispute resolution models. Rather than prescribing concrete solutions, the chapter serves as a diagnostic and agenda-setting contribution that invites interdisciplinary dialogue and effectively prepares the reader for the theoretical, empirical, and comparative analyses developed in the subsequent chapters.

Chapter 2, "Children's Health Matters in Custody Conflicts - What Do We Know?", offers a comprehensive synthesis of empirical research on the relationships between joint custody arrangements, interparental conflict, and children's health and wellbeing, demonstrating that while joint physical custody is often linked to positive outcomes such

as better mental health, lower stress, and stronger relationships with both parents, these benefits are highly context-dependent. Drawing on child psychology and developmental studies, the chapter shows that joint custody tends to be most beneficial in low-conflict families with sufficient socio-economic resources and a history of active parental involvement, whereas high and persistent parental conflict poses a serious risk to children's emotional security, mental health, and development, particularly among younger and more vulnerable children. From a critical perspective, the chapter's main strength lies in its caution against treating joint custody as a universal post-separation solution and in its careful reflection on the limitations of existing research, including selection bias and the underrepresentation of high-conflict cases. By bridging research and practice, it underscores the need for improved risk-assessment tools and more effective ways of ensuring that children's voices are heard in custody processes, thereby reinforcing the book's broader argument that custody decisions and legal responses must be sensitive to children's health needs and tailored to the specific circumstances of each conflict.

Chapter 3, "Nordic Family Mediation: Towards a System of Differentiated Services?", analyzes the organization and practice of family mediation within Nordic legal systems and questions whether existing mediation models are adequately adapted to the diverse and complex nature of custody disputes. Focusing on countries such as Sweden, Norway, Denmark, and Finland, the chapter examines mediation as an alternative or complement to court proceedings and shows that, despite its reputation as a child-friendly and conflict-reducing mechanism, Nordic mediation systems vary considerably in legal status, professional roles, mandatory or voluntary participation, and coordination with courts and social services. The author argues persuasively that mediation is too often treated as a uniform solution, even though custody disputes range from low-conflict disagreements to high-conflict cases involving violence, power imbalances, or serious risks to children, which can limit mediation's ability to safeguard children's rights and address underlying problems. From a critical perspective, the chapter's main contribution lies in its call for a system of differentiated services, in which mediation is tailored to the type and intensity of conflict, and in its procedural-law analysis that exposes gaps in role clarity, mediator competence, inter-institutional coordination, and children's meaningful participation. Although it does not propose a single replacement model, the chapter offers a nuanced and persuasive critique that encourages policymakers and practitioners to reconceptualize mediation as part of a broader, problem-sensitive dispute-resolution framework, reinforcing the book's central argument that legal responses must be carefully matched to the specific challenges of custody disputes.

Chapter 4, "Custody Disputes From a Socio-Legal Perspective," approaches custody disputes through an empirical and sociological framework, focusing on how legal rules function in practice rather than in abstract doctrine, and draws on qualitative and quantitative analyses of Swedish court cases to reveal the complex and deeply rooted nature of such conflicts. The chapter distinguishes between conflicts of interest, such as residence, contact time, and financial arrangements, and conflicts of value, including allegations of violence, inadequate caregiving, cooperation problems, and access sabotage, arguing that while courts are relatively effective in managing the former, they struggle significantly with the latter. As these value-based conflicts are often central to high-conflict custody cases, the chapter shows how the assessment of the child's best interests risks becoming superficial or distorted when legal procedures are ill-equipped to address underlying social and relational problems. From a critical perspective, the chapter convincingly demonstrates the limitations of family law adjudication by challenging assumptions about courts as neutral problem-solvers and illustrating how legal processes may inadvertently prolong conflict or fail to adequately protect children. Although grounded in the Swedish context, the analysis has broad international relevance and strongly reinforces the book's core argument that custody dispute mechanisms must be better aligned with the complex social realities faced by children and families.

Chapter 5, "Children's Participation and Perspectives in Family Disputes," examines how children involved in custody disputes can be meaningfully included in family-law processes while safeguarding their wellbeing, drawing on sociological theory and empirical studies of children's encounters with family-law services. The author argues that children's participation should not be understood merely as giving them a "voice," but as a broader, child-centred practice that integrates children's experiences, health, and sense of security into decision-making. The chapter highlights persistent challenges, including the risk of exposing children to parental conflict, insufficient consideration of children's views in practice, and the tension between protection and participation. At the same time, it offers a nuanced analysis of how child-friendly communication, risk assessment, and professional sensitivity can enhance children's agency without overburdening them. As a review, the chapter makes a strong contribution by bridging children's rights discourse with practical insights from social work and family-law practice, effectively demonstrating that genuine participation is both a procedural requirement and a matter of children's wellbeing, though it also reveals the ongoing gap between legal ideals and everyday implementation in custody disputes.

Chapter 6, "Mapping Paths to Family Justice: Resolving Family Disputes Involving Children in Neoliberal Times," critically examines how family justice systems in England

and Wales handle disputes involving children, with a particular focus on out-of-court dispute resolution in a neoliberal policy context. Drawing on empirical studies of parents, mediators, and legal practitioners, the authors show that while mediation and other alternative mechanisms are often presented as child-focused, they are less consistently child-inclusive, with children's voices and welfare frequently filtered through adult priorities such as co-parenting, efficiency, and cost reduction. The chapter highlights how assumptions that ongoing contact with both parents is inherently beneficial can marginalize concerns about domestic abuse, power imbalances, and children's safety, and how financial pressures further shape outcomes. As a review, the chapter makes a strong contribution by exposing the tension between access-to-justice reforms and substantive child protection, arguing persuasively for a more differentiated, context-sensitive approach to family dispute resolution that genuinely reflects children's rights under Article 12 of the CRC rather than merely invoking them rhetorically.

Chapter 7, "Out-of-Court Custody Dispute Resolution in Sweden A Journey Without Destination," critically examines the development and practical functioning of out-of-court mechanisms intended to resolve custody disputes in Swedish family law. The chapter shows that, although Swedish legislation and policy strongly promote non-judicial solutions such as cooperation talks, mediation, and mandatory information meetings to prevent escalation of parental conflict, these mechanisms often lack clarity, coherence, and adaptability to the complex realities faced by families. Singer argues that the legal framework places great emphasis on avoiding court proceedings as a goal in itself, yet fails to sufficiently define the roles, responsibilities, and coordination between social services and the courts. As a result, out-of-court processes risk becoming rigid, underused, or ineffective, particularly in high-conflict cases involving violence, power imbalances, or serious child welfare concerns. From a review perspective, the chapter offers a persuasive and empirically grounded critique, highlighting the gap between legislative ambition and lived practice. It contributes significantly to the book by questioning the assumption that out-of-court resolution is inherently child-friendly and by calling for more differentiated, problem-sensitive procedures that genuinely serve the best interests of the child rather than merely divert disputes away from the courts.

Chapter 8, "Children's Health Matters in Custody Conflicts: Best Interests of the Child and Decisions on Health Matters," examines how ongoing custody disputes can complicate decision-making in relation to children's health and medical treatment, particularly when parents disagree or are unable to cooperate. Drawing on a Nordic, primarily Norwegian, legal context, the authors analyze how the principle of the best interests of the child and the child's right to be heard operate when custodians must consent to healthcare decisions, highlighting the tension between parental authority and child protection. The chapter effectively shows that high-conflict parental relationships

may undermine parents' capacity to act in the child's best interests, sometimes leaving courts or welfare authorities with limited tools other than altering custody arrangements. From a critical standpoint, the chapter's strength lies in its clear illustration of legal and practical dilemmas through realistic scenarios, while also exposing gaps in existing legal frameworks that insufficiently address situations where parental conflict itself is a risk factor for the child's health. Overall, the contribution underscores the need for more nuanced legal instruments and interdisciplinary cooperation to ensure that children's health needs are not subordinated to parental disputes but are addressed in a timely, child-centred, and rights-based manner.

Chapter 9, "Challenges When Family Conflicts Meet the Law - A Proactive Approach," offers a forward-looking analysis of custody disputes by arguing that traditional legal procedures are poorly aligned with the complex, emotional, and relational nature of family conflicts, particularly those involving children. Drawing on the theories of proactive law, preventive law, and therapeutic jurisprudence, Thomas D. Barton conceptualizes custody disputes as dynamic and future-oriented problems that require legal responses aimed not only at resolving disputes but also at preventing harm and promoting long-term wellbeing. The chapter critically reviews how adversarial and reactive legal processes may exacerbate conflict and produce anti-therapeutic effects, while proposing that legal systems should adopt more flexible, problem-solving, and interdisciplinary approaches that acknowledge psychological and social dimensions. As a review, the chapter stands out for its strong theoretical contribution and its persuasive call to rethink the role of law as a constructive instrument in family disputes; however, it remains largely conceptual, offering limited empirical illustration. Nonetheless, its analytical depth provides an important bridge between legal theory and practical reform, reinforcing the book's central argument that legal proceedings must be better matched to the real problems underlying custody disputes.

Chapter 10, "Beyond the Horizon: Matching Legal Proceedings to Problems in Custody Disputes," synthesizes the core findings of the anthology and looks forward by critically assessing how legal systems can better respond to the complex realities underlying custody disputes. The authors emphasize that effective legal proceedings must move beyond rigid procedural frameworks and instead incorporate a child-centred, individualized, and knowledge-based approach grounded in the best interests of the child and the child's right to participation. Key challenges identified include tensions between private-law models and children's rights perspectives, fragmentation across legal and welfare systems, and persistent difficulties in ensuring meaningful child participation in both in-court and out-of-court processes. As a concluding chapter, it is particularly strong in highlighting the need for interdisciplinary integration and procedural reform, arguing that legal responses must reflect the emotional, relational,

and health-related dimensions of custody conflicts. While it does not offer simple solutions, the chapter effectively provides a forward-looking analytical roadmap, making it a thoughtful and persuasive conclusion that reinforces the book's central argument for aligning legal procedures with the actual problems faced by children and families in custody disputes

CONCLUSION

Overall, *Children in Custody Disputes: Matching Legal Proceedings to Problems* offers a rigorous, insightful, and timely contribution to the field of family law and children's rights by convincingly demonstrating that custody disputes cannot be adequately addressed through uniform or purely legalistic procedures. Across its chapters, the volume reveals persistent mismatches between the complexity of family conflicts and the legal mechanisms designed to resolve them, particularly in cases involving high parental conflict, violence, power imbalances, and risks to children's health and wellbeing. By integrating interdisciplinary perspectives, empirical research, and comparative analyses primarily from Nordic contexts but with clear international relevance the book challenges dominant assumptions about courts, mediation, and out-of-court processes as inherently child-friendly or effective. Instead, it advances a compelling argument for differentiated, child-centred, and problem-sensitive legal responses that take children's rights, voices, and lived experiences seriously. While the book does not prescribe simple solutions, its strength lies precisely in its diagnostic clarity and normative ambition, providing policymakers, practitioners, and scholars with a robust analytical framework for rethinking procedural design and reform. As such, the volume stands as an essential resource for advancing more humane, responsive, and rights-based approaches to custody disputes in contemporary legal systems.

References

Kaldal, A., Hellner, A., & Mattsson, T. (2024). *Children in Custody Disputes: Matching Legal Proceedings to Problems*. Stockholm: Palgrave Macmillan. <https://doi.org/10.1007/978-3-031-46301-3>