

Children caught in between
The best interest of the child and
family belonging

Family Benefits in a Comparative
Perspective

Eva Ryrstedt

Faculty of Law, University of Lund, Sweden

The Concept of Family

- Appears easy to grasp and understand
- The natural and fundamental basis for society
- However different concepts occur
 - The legal concept
 - The statistical concept
 - The psychological concepts

The Psychological Concept of the Family

- The widest concept
- A child may be part of more than one family at the same time
- No clear boundaries
- A household may consist of persons who are not part of the same family
- Members of the same family do not always share the same household

Cohabitees as an Example

- Equivalent with a marriage in certain ways?
- Some internal obligations and rules
- The relationship must be qualified
 - By having or having had children together
- Social benefits
 - By merely living together
 - Also meaning an "indirect" obligation to support each other financially

What Family a Child belongs to in establishing the Right to Benefits

- The legal concept a starting point
- However not fully carried out
 - Practical considerations
 - The role of the national registration in Sweden and Norway
 - Considerations due to responsibility
 - The decisions of the Secretary of the State in England
 - Australia setting another example
 - Tax reductions after material investigation
 - Tax reductions in relation to actual expenses for child care

Child Support – provided by the other Parent or by the State

- The parents duty to financially maintain their children
- A system of public child support
- In Sweden, Norway and Finland
 - Means tested?
 - Possible to receive for both parents?

Paid Parental Leave

- Sweden's unique position
 - Length of the income-related time off
 - Equality between mother and father with joint custody, regardless of their living together or not
- The mother's advantage a more pragmatic view

Children caught in between Family Belonging in a Social Legal Perspective

- The national registration – a technical system
- Material circumstances and conditions
- In the best interest of the child?