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**CHALLENGES AND OPPORTUNITIES FACED BY EUROPEAN WELFARE  
STATES: THE CHANGING CONTEXT FOR CHILD WELFARE**

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## The Climbié Inquiry – context and critique

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### *Abstract*

In October 1998, with her parents' consent, Victoria Climbié, aged 7 years, travelled with her great aunt, Marie-Therese Kouao from her home in the Ivory Coast to France. Six months later her great aunt, who posed as her mother, brought her to England. Ms Kouao sought housing from various local authorities but was refused because she did not qualify and was referred to social services. Further referrals were made because of child protection concerns first anonymously, later on Victoria's admission to two separate hospitals after apparent injuries and finally by Ms Kouao who alleged Victoria was being sexually abused. In February 2000, Victoria was brought to a hospital casualty department where she died as a result of abuse and gross neglect. Kouao and her partner Manning were convicted of her murder.

A major public Inquiry, chaired by Lord Laming, was set up to establish how and why the child protection system had failed Victoria. This was the latest in a long line of Inquiries but the first to include, all 3 key agencies - local authorities, health services and the police. It made over 100 recommendations for restructuring child protection services, largely focusing on the responsibilities of individuals and agencies to children and families, and on service co-ordination. The government accepted many of these recommendations; it produced a green paper, *Every child matters*, setting out its own ideas for improving children's services. These have been enacted in the Children Act 2004, which, amongst other things, establishes a Children's Commissioner for England, local Directors of Children's Services and a statutory framework for local interagency arrangements for safeguarding children.

This paper explores three aspects of the Climbié case which had little attention because of the terms of reference of the Inquiry and its focus on the failures of local agencies rather than the responsibilities for the well-being of children of parents and the State.

### *1) Parental responsibility, child trafficking emigration and immigration control*

The terms of reference of the Inquiry concerned only the events that occurred after Victoria's arrival in England. Issues relating to her parents' decision to allow her travel to Europe with a relative they had scarcely met, their complete lack of contact with Victoria after her departure and the use of travel documents relating to another child were not considered. Similarly, the failures of emigration controls in Ivory Coast and immigration controls in France and England were outside the terms of reference. It was

the breakdown in these systems (parental responsibility and state control), which left Victoria entirely dependent on a stranger, Kouao. These issues had been the subject of government sponsored reports (the Utting report), repeated legislation (Asylum Act; Immigration and Asylum Act 2002) and, for Ivory Coast, critical comment and recommendations by the UN Committee on the Rights of the Child.

Although it has been repeatedly stated that no child protection system can prevent the death of children at the hands of their carers, the exclusion of these wider issues of prevention, focussed all attention on the failure of the local state.

## *2) Role of the criminal law in child protection*

After Victoria's death there was a major police inquiry. This quickly established Victoria's identity and obtained evidence to convict Kouao and Manning. However, it was clear from the way previous incidents had been handled that the police viewed crimes against children in their own home or by their carers different from crimes against adults. The Inquiry was highly critical of the notion that child protection policing was somehow different from dealing with other incidents of violence.

Since 1988, there have been a series of reforms of criminal law and procedure with the aim of facilitating conviction of those who harm children. Child protection systems have been developed which are largely based on registering those who have been convicted of crimes against child. Much of the focus, at least in the media, has been on crimes by strangers, yet it is well-known that most harm to children is perpetrated by family members and others known to the victim. However, prosecution remains controversial (and undebated) for intra-family abuse. Also, increasingly, police performance has been measured in terms of prosecution and crime reduction, criteria against which police Child Protection Units (CPUs) do not score well. Child protection was not a Home Office Policing Priority. In this context it is understandable that the police gave less attention to harm to children by carers and that CPUs were poorly resourced in terms of trained officers and equipment.

## *3) The framework for providing family support services*

The Children Act contains separate provisions setting out local authority responsibilities in cases of children in need (s.17) or for child protection (s.47). Lord Laming was incensed at the different approach taken to cases whether they were identified as s.17 or s.47. Cases labelled s.17 (as Victoria's was) were given lower priority, were less likely to receive a service and likely to be closed quickly.

It was clear from the original drafting, from the Parliamentary debates and guidance on implementation that there was no intention to create in s. 17 a duty enforceable by individuals. Whilst the Climbié Inquiry was going on the courts were analysing the responsibilities of local authorities under s.17 and s.47. The House of Lords finally held in October 2003 in the *Barnet* and *Lambeth* cases that a local authority did not have to provide any services, even where it had determined they were required. It expressly endorsed the refusal of housing to people like Ms Kouao. In contrast, following decisions in *Z v. UK* and *Barrett v. Enfield LBC*, it was likely that local authorities were liable for negligence in handling child protection cases. A point subsequently confirmed in the Court of Appeal.

Overall, the paper illustrates the importance of the wider legal and social context within which child protection failures occur. For this reason, inquiries which focus on the actions of individuals can only ever provide a partial and incomplete view of what went wrong. This provides a poor foundation for understanding practice generally or for reform. Whilst agencies need to understand what action they can take to improve practice and avoid mistakes, the resources used for public inquiries would be better spent on research and demonstration projects.