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When the State Tries to See Like a Family: Cultural Pluralism and the Family Group Conference in New Zealand

In 1989 New Zealand legislators revised their child welfare legislation, partially in response to Māori and Pacific Island critiques that the previous state-centered regime had failed to take into account their culturally distinctive techniques for being a family and had failed to support culturally specific practices of decision making and conflict resolution. Legislators instituted a new and increasingly popular form of alternative dispute resolution—the family group conference—in an attempt to create a bureaucratic response to family dysfunction that was capacious enough to allow for any and every family’s involvement. In the process, however, they continued to understand what counts as a family along nuclear family lines. Against the New Zealand lawmakers’ assumptions, this article illustrates how, in the context of transnational migration, Samoan families experience tensions between the nuclear family unit that lawmakers envision and their lived extended kinship groups. As extended families, Samoan migrant families’ goal is not to produce socially productive citizens for the nation-state, but rather to produce a transnational family reputation. Thus, despite the legislators’ efforts to create culturally sensitive forms for family conflict resolution, Samoan social workers and community counselors had to translate the legislative act for Samoan families, negotiating and managing the conflicting presuppositions of what it means to be a nuclear family embedded in the act and what it means to be an extended family for Samoans. [family group conference, Samoan migrants, New Zealand, legislation, family conflict resolution, alternative dispute resolution, ADR]

For a brief period in the 1970s and early 1980s, pioneers of the alternative dispute resolution (ADR) movement looked to African moots and other examples of preindustrial village mediation to fashion new techniques for resolving conflict in the West (Christie 1977; Danzig 1973; McGillis and Mullen 1977; Wahrhaftig 1982). As dispute resolution practitioners turned to nonstate forms to pluralize formal legal processes, anthropologists and sociologists began to investigate the challenges of translating cultural practices of dispute resolution into techniques of state administration and law (see, e.g., Felstiner 1974; Merry 1982). In recent years, the field of ADR has experienced a new wave of borrowing. The family group conference,

perceived as emerging in part from Māori and Pacific Island practices, is circulating throughout the Anglophone legal world (and elsewhere) as part of the restorative justice movement (see, e.g., Crampton 2007:1; Merkel-Holdgun 2001:199).

In this article, we explore the initial process of translation that has enabled these borrowings to occur. In 1989 the New Zealand Parliament enacted the Children, Young Persons, and Their Families (CYPF) Act,¹ which instituted the family group conference as a means of enlisting families as partners in the management of cases involving child welfare and juvenile crime. The CYPF Act, which was “unprecedented in the English speaking world” (Maxwell and Morris 2006:241), quickly became a “‘gold standard’ and ‘best practice model’” as it spread to foreign fora (Vesneski 2009:1). Although the act reflects a self-conscious effort to create a bureaucratic response to family dysfunction that is capacious enough to allow for any and every family’s involvement, we illustrate some of the disconnections between the CYPF family group conference and the experiences of Samoan migrants in New Zealand—who are some of the culture bearers that CYPF Act’s multicultural practices were designed to serve (and from whom they were in part putatively borrowed). Using as an ethnographic resource Gershon’s fieldwork (from 1995 and 1997) with Samoan social workers and migrants in the aftermath of the act, we suggest that the families that parliamentarians envisioned when they debated the act can appear quite different from the actual families in which some Samoan migrants live and, more specifically, rest on different perceived relations between the family and the nation-state. Thus, despite the legislators’ efforts to create culturally sensitive forms for family conflict resolution, Samoan social workers and community counselors had to translate the act for Samoan families, negotiating and managing the conflicting presuppositions of what it means to be a nuclear family embedded in the act and what it means to be an extended family for Samoans.

Governing Through Families: Debates about the Family Group Conference

The CYPF Act emerged during a complex political moment. On the one hand, the New Zealand Parliament was renegotiating its obligations for the provision of local welfare and justice in response to neoliberal criticisms of state bureaucracy and government entitlements (Lupton and Nixon 1999:55). On the other hand, it was respecting decades of activism to restore indigenous control over the enculturation of children—activism often framed in the language of “racial (indigenous) social justice,” sovereignty, and legal pluralism (Daly 2001:61–62 n. 3).² As a result, efforts to enhance family decision making in social welfare policy mobilized broad support “from both the left and the right, from both humanitarians and market reformers” (Morris et al. 1996:231).

The legislation that resulted from these efforts reflects the parliamentary response to critical consultations not only with Māori but also with Pacific people. Indeed, we focus here on the experiences of Samoan migrants in order to enrich existing scholarship on the multicultural origins and effects of the CYPF Act, which is often written from a Māori perspective. In New Zealand, Māori are the dominant minority

group: 14.6 percent of the New Zealand population identify as Māori, in contrast to European New Zealanders (67.6 percent) and Pacific peoples (6.9 percent). Of Pacific Island groups in New Zealand, Samoans are currently the largest; there are 131,103 Samoans in New Zealand, 49.3 percent of the total Pacific people in New Zealand (New Zealand Department of Statistics 2006). In New Zealand, Māori and Pacific peoples are often seen as facing similar economic and social inequalities, a perspective made bureaucratic in 1968 and for a number of years later, when the Department of Māori Affairs accepted responsibility for Pacific Islanders living in New Zealand, eventually becoming the Department of Māori and Island Affairs.³

In the mid-1980s, the government attempted to regularize its efforts to consult with Māori and Pacific peoples over social legislation and, in our case, legislation to enhance family control over matters such as child abuse and youth offenders. To that end, it began to host regular *hui* and *fono* (public meetings) to create arenas in which Māori and Pacific people could voice their opinions about selected topics. For example, it “held five Māori hui and four Pacific Island fono” to generate popular input about proposed child welfare legislation (NZ Parliamentary Debates, James Gerard, April 20, 1989).⁴ The results of these consultations informed a series of legislative recommendations published in 1988 in a widely cited report, *Puao-te-Ata-tu* (Ministerial Advisory Committee 1988). The report observed that “the great majority of residents of Social Welfare institutions are Māori and a good number are of Pacific Island descent,” and it called for, among other things, “preventive measures aimed at stopping so many young people being put in these institutions in the first place” (32).

Thus although much of the discussion about cultural difference in New Zealand that motivated the CYPF Act focused on Māori rights and perspectives, in practice, Samoan and other Pacific migrants were actively consulted and envisioned as beneficiaries of the legislative process. Both Māori and Pacific peoples, moreover, expressed critical reservations about the “monocultural nature” of the original Children and Young Persons Bill (NZ Parliamentary Debates, Judy Keall, April 20, 1989). These reservations persuaded the Department of Social Welfare to conclude that any revised bill:

- (a) [M]ust have a cultural perspective which can be demonstrated by its maintenance of the status and cultural identity of the *tangata whenua* [the people indigenous to or belonging to an area], its sensitivity to and support of culturally appropriate procedures, and its emphasis away from intrusive and disempowering interventions.
- (b) The Bill must involve parents, family groups, *whanau* [extended family], *hapu* [clans], and *iwi* [tribe] in developing solutions to problem situations. [Department of Social Welfare 1987:3; italics and translations added]

Members of Parliament duly heeded the critique that the original bill was too Eurocentric and biased, and so attempted to craft laws that reflected what they had been told were Māori and Pacific Island strategies for resolving family crises. In particular, the legislators introduced family group conferences (CYPF Act 1989, sections

20–38), which were to reflect “aspects of indigenous methods of mediation, consensus and reconciliation” (Watt 2003:25), such as the Māori and Pacific Island practice of initiating meetings among extended family members in response to family conflict or to reach family decisions about important matters (Doolan 1988). The conferences envisioned in the act were to provide an arena where the family members and all interested parties could gather together to decide upon the best course of action for the child in question. Often following an opening ceremonial prayer, a social worker or coordinator would facilitate the sharing of information among state officials and family members. After the family had an opportunity to deliberate in private, the family, together with the social worker or coordinator, would formulate a plan to protect and support the minor in the case of child welfare, or to ensure that a minor make restitution to a victim and the government in the case of a juvenile crime (Ryburn 1993:3–4).

The New Zealand Parliament thus institutionalized a process through which the rules and norms governing reconciliation within the family could explicitly inform the rules and norms for reconciliation promoted by the state. Indeed, the CYPF Act encouraged and incorporated a range of culturally diverse family techniques for addressing child abuse and youth offenders. Rather than impose government solutions to the problems facing families labeled at risk, it instead invited those families to be explicitly cultural, or, as one commentator explained, to “draw on their cultural practices to find solutions, and develop a plan that makes sense to them” (Pennell 2006:265). Government officials, of course, stood ready to intervene when families appeared to fail to uphold their side of the bargain. The government, however, made clear that social workers and other professionals should shift roles from decision makers to facilitators who could empower families to develop their own solutions to institutionally defined problems (Department of Social Welfare 1989:3).

The years following the act’s implementation witnessed lively and sophisticated debates among child welfare practitioners and scholars. Several supporters of the act observed that a broad menu of economic and social reforms introduced by the newly elected Labour government⁵ made possible, or at least converged with, efforts by indigenous activists to extract the “unprecedented acknowledgment by [the] government that their practices toward children and families were not culturally appropriate” (Burford and Hudson 2000:xxiii). Thus, for example, Kathleen Daly (2001) explained that the CYPF Act emerged when a neoliberal turn in New Zealand politics meant “that services and programmes that might have been supported by the government in the past are now being returned to communities and volunteers” (61). As a result, many of the act’s supporters found themselves negotiating ambiguous terrain; they labored to limit the influence of the government in the lives of its indigenous (and non-indigenous) citizens “because they believed it was more likely to be effective, was more just and was simply right” (Hassall 1996:26). Yet they simultaneously cautioned that the language of family responsibility could provide (unwelcome) political cover for ““reduced cost to the state”” (19).⁶

Supporters expressed similar ambivalence about the act’s claims to multiculturalism. Even if the family group conference “was based on the Māori practice of resolving

serious problems in extended family groups” (Hardin et al. 1996:13), observers noted that the family group conference nonetheless “often failed to respond to the spirit of Māori or to enable outcomes to be reached which were in accord with Māori philosophies and values” (Maxwell and Morris 1996:95).⁷ One Māori researcher, for example, reported that although “many whanau, offenders, and victims who have experienced family group conferencing have found the process beneficial and preferable to the previous court-based system” (Love 2000:26), users worry nonetheless “that the apparent state commitment to a culturally appropriate and empowering process . . . may in fact serve only to provide a brown veneer for a white system that has historically contributed to state run programs of cultural genocide and whanau dismemberment” (29). Another researcher asserted that despite the widespread claim “that the family group conferencing legislation was heavily influenced by traditional Māori justice practices . . . [e]mpirical research on New Zealand family group conferencing to date . . . fails to confirm that it empowers its indigenous population” (Tauri 1999:159).

Debates about the family group conference thus assumed a form that has long inspired critical analysis and reflection within the field of ADR. Could these new dispute resolution techniques, modeled on indigenous (or otherwise culturally specific) and nonstate forms, radically restructure established dominant patterns of state control and professional expertise to benefit diverse local users? Or are they really just tools of state coercion “deployed by central governance to buttress a national mandate” through a cost-effective rhetoric of family responsibility and self-care? (Deukmedjian 2008:135). In the remainder of this article, we offer some insight into these debates, first, through an analysis of some of the assumptions about the multicultural family that the act encodes, and, second, through ethnographic accounts of how one of its groups of intended beneficiaries functions in practice. Again, we focus on Samoan migrant families precisely because much of the cultural critique of the CYPF Act emphasizes Māori perspectives. We take our cue from Jacques Donzelot’s *The Policing of Families* (1979): “The only way to transcend these academic debates,” Donzelot argued in his Foucauldian analysis of the rise of social work in France, “is to change questions”:

We must cease asking, What is social work? Is it a blow to the brutality of centralized judicial sanctions, putting a stop to the latter through local interventions and the mildness of educative techniques, or is it rather the unchecked expansion of the apparatus of the state . . . extending its grip on citizens to include their private lives? Instead, we should question the social work regarding what it actually does, study the system of its transformations in relation to the designation of its effective targets.” [98–99]

Replace the words “social work” with “family group conference,” and readers can see the impetus for our argument in the following sections.

Writing Families Into Law: The CYPF Act

The CYPF Act is an intriguing legal document for anyone concerned with the effects of multicultural legislation. As its revised title—Children, Young Persons, *and Their Families* (the latter part being the revised addition)—suggests, the New Zealand government made seeing like a family an overarching principle for a new form of dispute resolution endorsed by the state. For example, the act instructs that “wherever possible, a child’s or young person’s family, whanau, hapu, and iwi, and family group should participate in the making of decisions affecting the child” (section 5(a)) and that “intervention into family life should be the minimum necessary to ensure a child’s or young person’s safety and protection” (Section 13(b)(ii)). Only when interests irreconcilably collide, would the government prioritize the interests of the child over those of his or her family (sections 5 and 6).

This language represents a compromise brokered through highly contentious debates between members of the majority Labour coalition, which supported the act, and members of the opposition’s coalition parties. On the floor of Parliament, Labour MPs repeatedly invoked the concerns of Māori and Pacific people who “feared that the procedures and structures established by the [original] Bill did not take sufficient account of the place of the child as a member of a family, whanau, hapu, or iwi, and that they undermined the role of tribal authorities and the responsibilities of families, whanau, hapu, and iwi” (NZ Parliamentary Debates, Judy Keall, April 20, 1989). Opposition MPs, for their part, accused the Labour party of “bow[ing] to the cultural wishes of Māori and Pacific Islanders to the possible detriment of their children” (NZ Parliamentary Debates, James Gerard, April 20, 1989). One MP quipped that the bill offered less protection of children than the legislature of Western Samoa,⁸ not to mention that it offended universal principles of international human rights encoded, for example, in the UN Declaration of the Rights of the Child (NZ Parliamentary Debates, Warren Kyd, May 2, 1989).

To mediate this dispute—framed in Parliament as a conflict between deference to multiculturalism, on the one hand, and the protection of children, on the other—Labour MPs attempted to fashion capacious definitions of the family that could include multiple kinds of entities capable of caring for children. “Families,” one Labour MP explained, “are much greater than is recognised by the very narrow perspective that some Opposition members have of them” (NZ Parliamentary Debates, Annette King, May 2, 1989). Consider the following exchange between Minister of Social Welfare Michael Cullen and opposition PM Maurice McTigue:

Michael Cullen: The key issue is quite simple. How does one ensure, as much as one can, the protection of children from harm—from physical, emotional, and sexual abuse—without setting up a system in which those people responsible for the implementation of that system are virtually encouraged to take children away from their families on the slightest pretext and not to give families the chance to consider the issues that confront them? The term “family” has to be widely defined in the New Zealand context. It cannot be defined purely in

terms of the traditional nuclear family; it has to include iwi, hapu, and whanau.

Maurice McTigue: What's an iwi?

Cullen: The member for Timaru may laugh about what an iwi is. I suggest that he do some reading very quickly. He will find it very helpful for him in understanding some of the key issues in New Zealand politics in society over the next 20 years. The family has to consider the different cultural patterns within society. That is not sickly white liberalism; it is simply recognising the differing social patterns in our society. [NZ Parliamentary Debates, April 20, 1989]

Cullen argued that the act should purposefully describe social unities broadly in order to respond to a multicultural population: different social groups, he explained in response to his colleague's derision, do not hold identical definitions of families. What is more, he suggested that by understanding the "family" as an indeterminate term, legislators could enlist local resources beyond the nuclear family ("iwi, hapu, and whanau") to care for New Zealand's children. Like other Labour MPs, Cullen attempted to use the ambiguities intrinsic in the term "family" as a basis for political agreement and for fashioning a more flexible, socially responsible, and culturally responsive law.⁹

In order to legislate for such diversity, however, supporters of the act nonetheless needed to describe key characteristics of the family so that it could play the specific salutary role in promoting child welfare that they envisioned. Supporters of the act presumed that families exist as reasonably coherent, preexisting, and bounded social unities (a historical presumption that Donzelot [1979:227–233], among others, argued is a necessary myth for modern state–family dynamics in which the family provides the foundational raw material to construct the nation-state). Indeed, as the basis for crafting explicit state–family partnerships through legislation, parliamentarians could scarcely do otherwise.

They also presumed that all families function with common aims. While there may be multiple paths toward the same goal, each cultural family has, as its foundational purpose, the function of ensuring that the family unit satisfies the needs of each of its members, and most especially its children. Thus, for example, Labour MP Judy Keall explained the "family-centred focus" logic of the proposed legislation means that the government assumes "that, for the most part, the needs of children are best served within the context of the family, and it is family-shared decision-making that often provides the best solutions" (NZ Parliamentary Debates, Judy Keall, April 20, 1989). She recommended the revised bill before Parliament, which she argued was designed "to promote the well-being of families, and to strengthen the ability of families, whanau, hapu, and iwi to protect young people from harm and to discharge their responsibilities" (Judy Keall).

Parliamentarians were not the only members of government who saw families as social units that operate according to these functionalist principles. When Gershon was discussing "Strengthening Families," a new government project, with a New

Zealand public relations officer of a local social welfare office, she asked how the agency defines families. The officer responded that the definition is as broad as possible. Gershon then asked what it means to belong to a category so broadly defined, and the officer explained that families are similar to her family—a team—with every member contributing his or her fair share. According to her, it is possible to see all families as paths leading to good citizens.

In other words, in the parliamentary view, families' central functions are to take active responsibility for the care of children (and presumably to socialize them into being productive, contributing members of the nation-state). To that end, families are expected to self-govern themselves according to the idea that material and emotional resources should circulate equitably to meet each household member's basic needs. The Minister of Social Welfare thus stressed that the family group conference would primarily address cases that "involve neglect, emotional harm, or deprivation, and the need for some form of intervention aimed at assisting the upbringing of the child or children involved" (NZ Parliamentary Debates, Michael Cullen, May 16, 1989). This perspective, in turn, creates the context for government officials to read certain dynamics as problems; for example, when people spend limited resources on their own self-interest, there will be conflict and dysfunction within the family. MP Muriel Newman laid out this perspective in a speech critiquing the government's welfare policy during a discussion of the 1999 amendment to the CYPF Act¹⁰

The reality is that dysfunctional families are often very poor managers of their money, as well as poor managers of much of the rest of their lives. All too often the welfare money does get spent on alcohol, drugs, and gambling. . . . If families do not have the right sense of responsibility, [government assistance] can be used on other things, and in fact all too often children are the ones who miss out." [NZ Parliamentary Debates, Muriel Newman, June 1, 1999]¹¹

For Newman, and others in the New Zealand Parliament, families are supposed to allocate resources so that the basic needs of the household members (and especially of children) are always taken care of first; if the family does not, then it is dysfunctional.

Finally, members of Parliament used a parent-child relationship as the model to describe other relationships between relatives and a child or between larger social unities (hapu and iwi) and a child. The state, of course, had this relationship as well—government agencies can act as parents to children when their own parents fail them. Yet the public debates about multiculturalism made it apparent that government solutions to family problems would ensure cultural clashes. Hence, the CYPF Act proposed that the government should, instead, recognize the family "in the most extended sense of the word" as capable of providing their own culturally appropriate solutions to family problems (NZ Parliamentary Debates, David Robinson, May 16, 1989). Supporters of the act thus invariably suggested that shifting units of scale—parents, extended families, and then their communities—could resolve problems children faced. When parents fail, extended families should step in. How extended

families are internally organized was, again, left vague, but they were proposed as solutions to parental or familial failures, and thus expected to act as potential caregivers, at least implicitly, with authority, agency, and responsibility along the lines of a parent–child relationship.

In sum, as the legislators debated the CYPF Act, they were conscious of some of the problems in legislating for cultural families. Supporters attempted to write legislation with units so vaguely defined that no cultural approach to being a family was penalized. At the same time, however, they envisioned the family as a coherent social unit that holds as its primary goal a common project—cultivating children into productive citizens. Even more, members of Parliament envisioned an aspirational model of the family—marked by an egalitarian circulation of resources alongside an emphasis on the parent–child relationship as the primary relationship—and sought to make extended families and communities visible and stable through this particular nuclear family lens. From this perspective, cultures are simply the many avenues for reaching a common goal. As long as families appear to agree with the principal tenet that they focus on childrearing, the act could accommodate diversity. When family dysfunction occurs, supporters of the act proposed that the family group conference could create opportunities for the family to draw on its own cultural practices to heal itself.

Samoan Families, CYPF Families

In this part, we contrast the assumptions about the family embedded in the CYPF Act with assumptions that characterize familial relations among Samoan migrants in New Zealand who were the subjects of Gershon’s ethnographic fieldwork. We do so in order to explain why, despite the stated intentions of the members of Parliament who drafted the CYPF Act, Samoan social workers repeatedly suggested to Gershon that the implied families in the act were quite different from the actual families in which they and other Samoan migrants lived. In 1997, when Gershon interviewed Samoan social workers about implementing the CYPF Act, several responded in a way that puzzled her. The social workers did not talk about translating the act into Samoan, an activity that the organizations they worked for constantly expected them to do. Rather, the social workers discussed “raising the level” upon which Samoan families operated to “the level” of the act. Raising families to the level of an act is a different process than translation, and a relatively opaque process. Gershon tried to figure out what exactly had to be done to make the act comprehensible to Samoan families. Initially, she thought that they were talking about the divide between an abstract piece of legislation and the nitty-gritty realities of daily family life. When she asked one man if this is what he meant, he agreed uneasily, and then explained how the act in its raw form could not be effectively introduced to Samoan families. He told her that Samoan social workers must take unarticulated aspects of Samoan family life and transfigure these into explicit topics for conflict resolution within the parameters established by the act. At the same time, they also discussed shifting the way that they presented the act to their clients to more easily introduce it into the Samoan family.

The social worker's descriptions thus indicated that the act was not unfolding as the stories about its multicultural origins predicted. Of course, any attempt to translate social practices into codified rules of law involves constricting and redefining the variability of human experience. But what Gershon was hearing from her Samoan interlocutors was different; they were voicing particular kinds of tensions caused by a mismatch of cultural expectations, despite the act's attempts to circumvent precisely these problems.

In order to make sense of the Samoan social workers' responses to the CYPF legislation, it is first necessary to provide some background on Samoans in New Zealand. In 1914 Western Samoa (now independent Samoa) became a colony of New Zealand, which enabled Samoans to migrate to New Zealand in search of educational and economic opportunities. Cluny Macpherson (1997) describes three waves of Samoan migration to New Zealand. According to Macpherson, the pre-World War II wave consisted of Samoan scholarship students to theological schools and universities. The second wave, post-WWII, consisted of Samoan migrants who had served in the colonial bureaucracies in (now independent) Samoa and people from Samoa of mixed parentage (Samoan-European-New Zealand). The third wave occurred in the early 1960s when Samoan migrants began to take advantage of the postwar demand for manual labor.

All three waves that Macpherson describes were filled primarily with young adults establishing themselves in a new country, as well as seeking ways to continue contributing to their families' *fa'alavelave* (Samoan ritual exchanges) and contributions of money, food, and fine mats (densely woven treasured mats) at events such as weddings and funerals. These exchange events would often trigger Samoan family group meetings (typically members of the extended family and occasionally a sibling's affines) to decide how much they would contribute and from whom.¹²

In American Samoa and independent Samoa, *fa'alavelave* constituted a public arena for exploring the boundaries between families, defining family membership, and revealing the collective strength of a family through its exchanges. Upon migrating to New Zealand, Samoan migrants re-created communities that often revolved around newly founded churches that would serve as sites for *fa'alavelave*. They began to build exchange networks in New Zealand within the churches and with family members who had also migrated in order to demonstrate their family's strength and ability to accumulate resources. At the same time, however, migrants still felt obligated to assist their families back home with remittances to meet their familiar obligations and maintain their family's status in Samoan villages. Thus, Samoan migrants were using *fa'alavelave* to establish their family's importance in two arenas: the exchanges taking place among their local church communities and the exchanges taking place back home.

More than 50 years of migration has brought a stronger emphasis to *fa'alavelave* as the central ritual through which Samoan families explore both what it means to be Samoan and what it means to be a Samoan family. When Gershon discussed *fa'asamoa* (literally, the Samoan way) with migrants, initially she had expected

people would use this term to describe disparate interpretations of Samoan culture. Instead, whenever she mentioned *fa'asamoa*, she found herself in a conversation about *fa'alavelave*. For the Samoan migrants she spoke to, being Samoan revolved around their involvement with these ritual exchanges.

For many migrants, parents are the primary vehicle through which they stay connected to the *fa'alavelave*. For example, a village council in Samoa will decide that it needs to build a new church, and ask each family in the village to contribute money toward this goal. The parents in Samoa will start calling their children in New Zealand, requesting money for the church. The children will not necessarily feel all that connected to the village itself—they might not have lived or visited there for 20 years, but because their parents are asking, they will send money back to Samoa. As people become second- or third-generation New Zealand citizens, they tend to devote as much (or even more) resources to New Zealand-based exchange networks. Parents living in New Zealand, in turn, become the principle overseer of these local exchanges as well as the principle conduits through which transnational remittances are demanded and enacted.

In Gershon's interviews, her interlocutors described two basic patterns for determining how much to give and from whom. In all cases, the *matai*—in Samoa the traditional family chief and in migration often a parent (or a parent's oldest local sibling)—learns that a relative will soon have a funeral or wedding, or that a community needs resources to accomplish a goal, for example to build a new church. In some instances, the *matai* decides how much he or she wants the family as a whole to donate, and then calls each family member and tells them how much to give.¹³ In other instances, however, a parent (who is often the *matai* of the family as well) will call a family group meeting where members determine how much the parents and sibling set, as a unit, will contribute to their family branch's donation.

To the degree that it is possible to generalize, Gershon noticed two themes emerging from Samoan migrants' accounts of these family meetings. First, not everyone can speak freely. Certain people (such as in-laws) do not have the right to speak at all, and often are not even present. Second, parents make the final decision, determining both how much money to give and how much each of their children will contribute. In short, the private family conferencing techniques with which money and fine mats are gathered for a *fa'alavelave* are part and parcel of the hierarchical relationships that shape family dynamics. During the actual exchange, these hierarchical intrafamily negotiations about the collection of money and other resources are pushed to the background; the family presents itself as a unified collective in order to reveal inter-family connections, including both the family's wealth and the family's assessment of its relationship to other families. Thus one significant way that migrants experience what it means to be part of an extended Samoan family is through the tensions between delicate (often conflictual) private elicitations and public displays of unity.

After migrating, Samoans often described a new tension emerging between the need to balance the necessities of maintaining a household with the necessities of contributing to their family's *fa'alavelave*. For example, one schoolteacher told Gershon that she

was beginning to evaluate her attitude toward fa'alavelave, and that she was no longer as willing to give automatically whenever her father called with a request. She recounted how she started to explain to her son that they did not have the money to spend on new shoes, and then stopped. Her father had asked her two days earlier for money for a relative's funeral (whom she did not know), and she had given unquestioningly. At that moment, she realized that she gave money for fa'alavelave without reservation, and always cut corners in her own household. She saw her household's needs as flexible enough to be deferred and as a lower priority than her extended family's needs.

Gershon heard versions of this story many times, in which a person was forced to juggle the demands of being part of an extended Samoan family with the demands of maintaining a home. These recurring examples illustrate how Samoans' extended family networks do not always recapitulate the aims of the nuclear family but instead can push against them. From this particular Samoan perspective, the emphasis on the parent-child relationship is not on how an internally focused family nurtures its own children into independence. Rather, the emphasis is on how children will contribute to the family's sense of responsibility to and connections with other families and communities. In this sense, the ways in which Samoan people have restructured their extended family networks for exchanging resources in migration do not reflect the techniques or priorities that the government agencies imagine for families.

In sum, some of the dilemmas Samoan social workers faced when they told Gershon about bringing the act and the family onto the same level become apparent when taking the central role of fa'alavelave into account. The overarching purpose of the act was to enlist extended families, broadly defined, as culturally appropriate resources to aid in the care and well-being of New Zealand's children. The act's implicit assumptions about how families operate, however, did not anticipate how extended Samoan families use group meetings to make the family visible as a collective that can gather together ample resources for ritual exchanges and yet in which unity is only periodically desired or achieved. To be sure, Samoans make families visible as strong and important units through their exchanges, but the family as a unit does not exist in the way it does for European New Zealanders. For Samoans, the contours of the family are constantly explored and reconfirmed or renegotiated through ritual exchanges. During these ritual exchanges, people use kinship relationships to express different forms of hierarchy. These hierarchies represent declarations of public unity—but declarations that are often transient and which are achievements in part because of the suppression of private inequalities and conflicts. When, as is the case with many extended Samoan migrant families, transnational exchange is viewed as the primary intentional labor of families, not childrearing, a conflict between diversity and nationhood emerges. Families no longer share the same project as the nation-state, and being explicitly cultural is not the road to being a productive citizen.

Other dilemmas Samoan social workers faced when implementing the CYPF Act reflect the different and culturally specific ways in which information circulates, both within Samoan families and through outsiders intervening with these families. Consider the following example. Through the generosity of counselors at a Samoan

nonprofit organization, Gershon had the opportunity to attend counseling sessions with Samoan mothers after the family group conferences they attended. The Samoan nonprofit organization treated these clients at the behest of the local Children, Young Persons and Their Families Services (CYPFS) agency that sought to ensure culturally appropriate processes. We summarize the details of one typical case, which captures the ways in which the intricacies of kinship and the CYPF Act's expectations about knowledge circulation did not translate.

In this particular case, the mother had three children, each of whom had been removed by the CYPFS agency, one by one. The Samoan counselor, Lupe,¹⁴ told Gershon that she did not think that the client was a bad mother, but rather was simply unsophisticated. Lupe said that the mother had taken care of her children's basic needs, ensuring that they were clothed and fed. But the mother had no understanding of their emotional needs, and was not careful about whom she let into the house or turned away. Lupe wished that her client had even one older relative in New Zealand, but that had not been the pattern of her family's migration. Although her younger siblings were included in the CYPFS agency-sponsored interventions as her extended family, they had no authority to take over some of her parenting responsibilities or to control the flow of guests into their house.

The mother was in her late twenties, hesitant, soft-spoken, and never initiated a conversation or line of thought. She only responded to Lupe's gentle questioning, and as the questions slowly built one upon the other, a story of communication gaps began to emerge. The mother wanted her children, who were not living with her, to visit her over Christmas, but these were not the arrangements that had been made for her. Her younger sister, in violation of Samoan family hierarchical principles, had made arrangements with the CYPFS agency's social worker for the children to visit two weeks before Christmas. The sister had been given the authority to arrange this visit because the mother was not allowed to be with her children without relatives present. As Lupe continued asking about the arrangements, it became apparent to Gershon and to the mother that Lupe had been negotiating with both the social worker and the sister for permission for the children to spend Christmas dinner with their mother. Lupe had been making all sorts of tentative schedules, with everyone's knowledge, except for the knowledge of the mother herself. Lupe initially kept her in the dark about this likely change in plans. It was only in the way that Lupe kept asking questions that this alternative was gradually revealed to the mother.

Lupe's interventions after the family group conference point to some of the gaps and cultural mismatches that Samoan social workers navigate when Samoan families must respond to CYPF policy. In the implicit CYPF narrative of how families function, knowledge plays a particularly revelatory role. For the supporters of the act, a significant cause of the dysfunction is ignorance—if people knew better, they would manage their families properly. Proponents of the act thus widely publicized their stance that given proper resources and information, “a family group will make safe and appropriate decisions for children” (Department of Social Welfare 1989:3). Or, as one MP put it: “The fundamental principle is the focus on the supportive role families can play . . . but they need sensitive information and non-judgmental

professional support” (NZ Parliamentary Debates, T. W. M. Tirikatene-Sullivan, May 2, 1989). As a result, the CYPF act casts social workers in the roles of bringing transformative information: once everyone in the family knows the same things, the family can start functioning properly. Indeed, social workers and other professionals are explicitly understood as “information givers,” the nodes through which families can enter into the government agencies’ flow of resources and knowledge (Lupton and Nixon 1999:63).

From a CYPF agency perspective, then, the information that formed the basis for Lupe’s interventions circulated in an unpredictable and nontransparent fashion. The mother did not know the plans for her children, and had little say in the matter. Lupe did not assume, as the CYPF act does, that it was—or rather should be—transparent who knew what and when. Nor did she assume that her role in the aftermath of the family group conference was to create spaces in which everyone can and is expected to speak. To the contrary, Lupe worked gently and, at times, furtively to establish flows of information precisely because, in Samoan families, most, if not all, relationships are highly charged in terms of knowledge and resource transmission. Lupe was using the counseling sessions to mediate and manage flows of information that the CYPFS agency social worker who had contracted her services took for granted.

Alongside this assumption about the salutary power of information is a related aspiration that in family group conferences, people are interacting on an equal playing field with, at minimum, an equitable opportunity to speak and be heard. CYPF family group conferences are meant to re-create ritually each person’s commitment to the family as a functioning system and to provide an arena in which all members, including children, are encouraged to articulate his or her own needs that the family will try to understand and meet. For Gershon’s interlocutors, Samoan family meetings, which CYPF family group conferences are, in part, supposedly modeled upon, are not sites for asserting individual needs or for establishing baseline forms of communicative equality.¹⁵ On the contrary, family meetings are contexts in which the hierarchies of who gets to speak and for whom is challenged and reasserted. The meetings can provide moments for airing and delaying well-established tensions. Often, these are situations in which people can negotiate the details of various ongoing conflicts, even shifting the conflict’s trajectory without resolving it. Gershon’s interlocutors presumed neither family unity nor individual equality in these settings. The conflict resolution techniques of the CYPF family group conference, which embed aspirations for transparency, equality, expression, and choice, can thus conflict with normative Samoan ideals of how to structure family meetings and ritual exchanges.

Conclusion

To return to Donzelot, what then does the CYPF family group conference actually do? How does it incorporate or transform the conference’s designated users? In 1989 New Zealand legislators revised their child welfare legislation partially in response to Māori and Pacific Island critiques that previous legislation had failed to take into account their culturally distinctive techniques for being a family. Yet during her

fieldwork, Gershon repeatedly encountered a conundrum: Why did a legislative act written to accommodate cultural differences in families require cultural translation when implemented? Legislators instituted family group conferences in an attempt to create a bureaucratic response to family dysfunction that was flexible enough to incorporate any and every family. Yet, in the process, the legislators continued to understand what counts as a family along particular nuclear family lines. That is, they envisioned the family as a unit that, when functional, does not conflict with the aims of society and the nation-state. More specifically, legislators presumed that within functional family units, resources and information circulate easily and equitably, guided by parents (and other relatives) who channel family members toward one overarching and shared goal: the overall well-being of children and the family's social productivity. Families supposedly become dysfunctional when this circulation of knowledge and resources breaks down, and families putatively can be repaired with conscious intervention through communication, information, and dispute resolution.

Against the New Zealand lawmakers' assumptions that all families do or should work in this way (even as they encompass diverse entities and actors), we have suggested that in the context of transnational migration, Samoan families experience tensions between the nuclear family unit that lawmakers envision and the extended kinship groups in which they live. As extended families, Samoan migrant families' primary focus as a family (which has an occasional, not a continuously explicit, focus) entails participating in *fa'alavelave*. Here their goal is not to produce socially productive citizens for the nation-state, but rather to produce a transnational family reputation. Samoan social workers and community counselors thus had to translate the act for Samoan families, despite legislators' attempts to write culturally sensitive forms of family conflict resolution into law. These were not linguistic acts of translation, but rather efforts to bring into dialogue the act's presuppositions of what it means to be a nuclear family with the conflicting Samoan understandings of what it means to be an extended family.

The family group conference does not always travel as smoothly into different families as reformers may envision—at times, it incorporates cultural dynamics, and at other times, it reshapes cultural dynamics to achieve the state's own ends. Nonetheless, the technique of conferencing travels widely: to Canada, the United Kingdom, and elsewhere—and into families perceived as part of minority ethnic groups (Chand and Thoburn, 2005:175). In New Zealand, it is precisely because Samoan community workers can adapt the family group conference to Samoan migrant families' needs through certain acts of translation that the family group conference can travel as it does.

Not all legal-bureaucratic forms are as flexible. As Cohen (2006, 2009) has argued elsewhere, informal and extralegal forms of dispute processing travel widely today as tools to solve social problems precisely because they are capacious and underdetermined; as such, they presumably cause less friction when they make contact with new subjects on the ground. In other words, informal dispute resolution—of which conferencing is now a firmly institutionalized part—provides infrastructure that does

not fully prescribe its uses, and therefore can simultaneously embrace, translate, and transform culturally specific forms of social organization. Yet, as New Zealand-based critics of family group conferences remind readers, legal scholars and practitioners need to remain skeptical of this form's flexibility. It is enthusiastically welcomed at a particular historical moment in capitalism, in which neoliberal projects encourage flexible procedures that allow governments to devolve responsibility to other social unities, such as families. And so we conclude by asking readers to be mindful of the burdens and tradeoffs that culturally sensitive forms impose—when cultural categories are translated into law they are unlikely ever to be capacious enough to travel without friction.

Notes

1. Children, Young Persons, and Their Families Act 1989 (N.Z.), available at <http://www.legislation.govt.nz/act/public/1989/0024/latest/DLM147088.html> (last accessed January 30, 2015).
2. Māori activists often framed their demands by insisting that the 1840 Treaty of Waitangi grants them autonomy over their own communities (see, e.g., Wilcox et al. 1991:6). The treaty recognizes Māori as British subjects and was signed by over five hundred Māori chiefs and representatives of the British Crown. The English and Māori versions of the treaty are different enough to raise questions about what precisely Māori signatories were acceding to. Yet, since the 1970s, there has been widespread acknowledgment that the treaty committed the Crown to protect Māori rights and Māori culture.
3. The Department of Māori and Pacific Island Affairs split in 1990.
4. All citations to 1989 New Zealand Parliamentary Debates on Children and Young Persons Bill (subsequently titled Children, Young Persons and Their Families Bill) are available at <http://www.vdig.net/hansard/index.jsp>. Last accessed February 3rd, 2015.
5. Beginning in 1984, the New Zealand Labour government began to introduce policies based on principles of limited government, fiscal restraint, free trade, and a deregulated labor market under Rogeronomics (named after Roger Douglas, the Labour finance minister who spearheaded many of these reforms).
6. Indeed, some scholars who have studied the implementation of family group conferences observe: “‘New Right accounting practices and strait jacketing of social work delivery has significantly undermined the empowering and resourcing thrust of the CYPF Act, which was itself the product of a different set of economic trends’” (Lupton and Nixon 1999:67; internal citations omitted). See Bargh 2007 for a Māori critique of neoliberal economic policies.
7. In their later writings, Maxwell and Morris (2006) took pains to clarify that the New Zealand system represents an attempt to create “a modern system of justice, which is culturally appropriate” (244), rather than a faithful replication of indigenous systems of justice.
8. A former New Zealand colony, Western Samoa became independent in 1962. It changed its name to Samoa in 1997.

9. For the opposition, this strategy stood not to strengthen, but rather to eviscerate, the family. As one MP put it, “[T]oday the family is anything; it is bigger than this and it is bigger than that. [These] comments are indicative of the way the Government has denigrated the family” (NZ Parliamentary Debates, Graeme Lee, May 2, 1989).
10. This amendment was designed “to provide more equal treatment between kin and non-kin-based groups” to act as child guardians. In brief, the 1989 CYPF Act (section 396) allowed select organizations to act as child guardians. For Pacific Island people, these organizations included “cultural social service groups that are established by a cultural group,” but for Māoris, they included only “iwi social service groups that are established by an iwi.” Under the proposed amended legislation, a non-kin Māori cultural organization (*non-kin* because it “did not claim to be an iwi in a tribal sense”) could “be appointed by the Family Court as sole or additional guardians for children and young people” (NZ Parliamentary Debates, Minister of Social Services, Work and Income, Roger Sowry, June 1, 1999).
11. All citations to 1999 New Zealand Parliamentary Debates on Children, Young Persons and Their Families Amendment Bill available at <http://www.vdig.net/hansard/index.jsp>. Last accessed on February 3, 2015.
12. For detailed accounts of different kinds of exchange, see Gershon 2012, Schoeffel 1999, Shore 1982, and Yamamoto 1997.
13. Occasionally the matai simply tells the family members that a fa’alavelave is looming, and asks them to “give as much as you can afford.” If the matai cannot collect a sufficient amount of money, he or she (as most informed Gershon) supplements the amount with an even larger personal donation, so that the family is not shamed in the exchange.
14. Every one of Gershon’s fieldwork interlocutors has been given a pseudonym.
15. Albeit on a different continent and in a different context, Gershon’s observations of training sessions for Samoan family counselors in the United States, in this case in San Francisco, help to illustrate this point. During one session, the trainer Angela discussed how to encourage parents to meet their children’s emotional needs. When Gershon pointed out that not every cultural perspective encouraged parents to see children as emotionally needy, Angela asked Alofa, a Samoan trainee, how Samoan parents addressed requests for lunch money or new sneakers. In response, Alofa tried to explain that children were not supposed to express these needs openly. Parents were supposed to anticipate the physical needs of their children. If a child asks a parent for something, the child is implicitly criticizing the parent for failing in their parental responsibilities. In general, Alofa said, children are not seen as having needs. Instead, children have a specific role that has certain duties and obligations. Parents also have specific roles, which entails fulfilling various responsibilities toward their children. Alofa explained that this was why most of her job as a community-based worker was teaching parenting classes—because what might be culturally appropriate in Samoa was not necessarily appropriate for Samoan families living in the United States. She described how from a U.S. perspective, Samoan culture

often encouraged parent–child relationships detrimental to a child’s well-being. Despite Alofa’s eloquent intervention, Angela was not persuaded. She kept insisting that to be a parent meant trying to understand, discuss, and respond to one’s children’s needs (Gershon 2012).

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