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VISUAL LAW: WHAT'S IN A NAME? CHILDREN'S RIGHTS AND LEGAL VOICE WITHIN ADMINISTRATIVE AND JURIDICAL PROCEDURES OF RECOGNITION OF SAME-SEX FILIATION*

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Abstract

This performative text, consisting of writing and visualizations, explores children's voices within court proceedings connected to the legal recognition of intended mothers within lesbian-parented families. The research used long-term ethnographic observations and biographical interviews focused on French and Italian families from the "activist generation" who devoted their efforts to obtaining reproductive and family rights. The article provides a critical account of the implementation of Article 12.2 of the United Nations Convention on the Rights of the Child 1989 (UNCRC)—that is the right to be listened to in judicial and administrative proceedings affecting children. Our main argument is that, in contrast to the intention of Article 12.2 of the UNCRC, children are given a more symbolic than substantial voice in court proceedings and administrative procedures. The text situates children's voices both in the wider context and in everyday life. Drawing on ethnographic research data, we show where and to what extent children's voices emerge or, on the contrary, are silenced.

Keywords: same-sex parenting; filiation; children's rights; ethnography; creative writing; visual methods; performative text; Euro-American kinship; Italy; France.

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“What’s in a name? That which we call a rose by any other name would smell just as sweet.” W Shakespeare

[A] INTRODUCTION

The last decades have been characterized by the emergence of new forms of child production, family reproduction and kinship practices, thanks to the development of assisted reproductive technologies (ART). These social changes within family structures implicated a shift from the concept of “being” kin based on genealogical positions and the biological facts

of “doing” kinship, namely the constructed and processual dimension of relationships which undergo a continuous process of making (Carsten 2000; Franklin & Mckinnon 2001; Strathern 2005). This is the notion of “intentional kinship”, that is, a relationship without any biogenetic or legal basis between a child and the parent who participated in the child’s birth from a social point of view (Tarnovski 2017).



Visualization No 1: Outside the space of legal recognition

A consequence of these social changes was the destabilization of the “internal reciprocal coherence” of the Euro-American kinship system (Leaf 2001: 74). Visualization No 1 engages with the growing gap between legal and practical kinship that has characterized this process. Legal filiation—that is the political-juridical dimension of family ties—had been built upon a conception of filiation rooted in real or assumed genetic ties within the framework of heterosexual reproduction (Grilli

& Parisi 2020). Several European states were confronted both with the growing gap between legal and practical kinship as well as social movements advocating for the recognition of intentional kinship in the name of the children’s best interests (de Cordova & Ors 2023). In countries such as Italy that have not adapted their legislation, intended ties still require a juridical or administrative translation of intentional kinship ties. Against this background, this article addresses

the following research questions: how do children of same-sex parents experience and act within these processes of parental recognition? To what extent are their voices and experience of kinship listened to during the processes? In this article we refer to the former as “legal voice” and to the latter as “children’s kinship”.

This article draws on data collected within the research project “Lesbian Moms and Their Kids at Court—LeMoKiaC” carried out by Sarcinelli.¹ The data was analysed additionally through the use of visual methods with anthropologist and illustrator Weissensteiner. LeMoKiaC explored the extent to which children’s voices are taken into consideration by mothers as well as by professionals during legal recognition proceedings. The research provided an ethnographic account of the implementation of Article 12.2 of the United Nations Convention on the Rights of the Child 1989 (UNCRC)—that is the right of children to be heard and taken seriously in judicial

and administrative proceedings affecting children—within procedures involving lesbian households in France and Italy.

Despite differing legislative attitudes towards same-sex parenting in those two countries over the last few years,² the children who participated in the study were born with two mothers, only one of which was initially recognized as a legal mother and they experienced a process of legal recognition of intentional ties initiated by their intended parent between 2013 and 2023. Italy’s 2016 law on civil unions³ for same-sex couples does not address parental rights. Thus, most lesbian households resorted to the so-called “*adozione in casi particolari*”—adoption in special cases (Farina 2017), a judicial procedure that does not involve the genealogical line of the adopting parent.⁴ This process requires the legal mother’s consent and the intended mother must demonstrate affective ties to the child. In some cases, the intended mothers managed to be registered

¹ See lemokiac.hypotheses.fr.

² ILGA’s [Rainbow Europe Map 2023](#)—a chart evaluating the current status of laws, policies and practices affecting LGBTI people in Europe—gives France an overall score of 64% and ranked it 10 out of 49 countries and on the thematic criteria “family rights”, 76%. Italy is ranked 34 out of 49 with a total score of 25% and for the thematic criteria “family”, received a score of 17%.

³ Law No 76 of 20 May 2016, entitled Regulation of Civil Partnerships between Same-sex People and Regulation of Living Together published in the Official Journal No 118 of 21 May 2016.

⁴ Italian adoption Law No 184/1983 has been applied since 2014 on the principle of the child’s best interest and is now a well-established practice in most courts, although there are still diversified practices among them in terms of timing and the kind of documentation requested. Although the child thereby acquires a juridical kinship tie with the co-mother, the child does not enter her genealogical line as full kin. This form of recognition is used by couples that have procreated both through ART and through self-insemination.

on the child's birth certificate at the foreign clinic where the ART procedure took place.⁵

As for the French lesbian-parented children who participated in the study, they underwent adoption following the legislation on same-sex marriages of 17 May 2013 (Law No 2013-404).⁶ They were therefore unable to benefit from the recent revision of the bioethics law of 2 August 2021 (Law No 2021-1017) that introduced a so-called “anticipated joint recognition” (*reconnaissance conjointe anticipée* (RCA)) by two women undertaking a parental project through ART⁷ and the revision of the adoption law voted in on 22 February 2022.

In the first section of the article, we reflect on the methodological and epistemological questions raised by the attempt of producing ethnographic child-centred knowledge. In sections C and D we present—both visually and verbally—an anthropological analysis of children's living rights within

lesbian households. In the conclusions, we reflect upon the social and cultural contexts and the nature of the moral communities shaping children's voices. By doing so, we highlight the role of the state in the definition of hierarchical relations within families, especially in minoritarian configurations, and we raise the point that the recognition of kinship ties is always framed as a parents' right to kin their child, and never as a child's right to kin their parents.

[B] FROM “VISUAL ANALYSIS” TO “PERFORMATIVE TEXTS”

LeMoKiAC's purpose was to provide child-centred perspectives on legal recognition of lesbian-parented families' intentional ties. It accounted for children's voices both within internal family discussions before and during the procedures as well as within all sorts of actions related to the procedures (the

⁵ Such a registration of intended mothers on the birth certificate was rendered possible in some Italian municipalities between 2018 and 2023 for couples having procreated through ART abroad before the practice was suspended following an order by the Interior Minister to erase the non-biological mother's name on birth certificates, leading to ongoing legal cases in several tribunals of Northern Italy.

⁶ Their intended mothers could either ask for full adoption (if the child was under 15 and the couple were married) or for simple adoption. In the absence of an adoption authorization provided by the legal mother, an intended mother could issue a *demande de droit aux relations familiales* (request for the right to family relation) or a *délégation de l'autorité parentale* (delegation of parental authority) (see Mesnil 2021).

⁷ The new birth certificate mentions the mother who gave birth (Art 311-25 *Code civil*) first and the mother who did not (RCA) (Art 342-11 *Code civil*) second: they share parental authority (art 372-11 *Code civil*). See the circular *Direction des affaires civiles et du sceau*, Ministère de la justice from 21 September 2021. A catch-up system for children born before 2021 created by Art 6 IV of the law will be come into force on 22 February 2025.

creation of a dossier, meetings with lawyers, inquiries by social workers on behalf of the court etc). The method of local comparative studies (Kröger 2001) between Italy and France was adopted to avoid the issues with micro-ethnography and to include different territories without renouncing the technique of ethnographic observation. I (Alice Sophie Sarcinelli) focused, for each country, on a generation of children who grew up during a period of strong politicization of same-sex parenting in the public space⁸ (Courduriés & Tarnowski 2020; Prearo 2024).

The research thus focused on families belonging to the “activist generation” (Sarcinelli & Simon 2021), namely the generation whose efforts were devoted to obtaining reproductive and family rights through activism, litigation and presence in the public space. But how can the voices of these children be grasped? I moved through “plural kinship spaces” (Sarcinelli & Ors 2020)—both everyday spaces and legal/administrative spaces of kinship—and through time, thanks to both long-term ethnographic relationships and biographical

interviews with young adults. I used participant observation with a reflexive approach. This consisted of informal conversations with children using a set of ethnographic child-centred research techniques (ie observation of first uses of kinship language, production of kinship charts, informal conversations, written data) chosen according to the participant’s age, competences and social characteristics. This approach also included biographical interviews conducted mostly in person⁹ with parents and grown-up children. Both the administrative procedures and court proceedings were studied through semi-structured interviews with lawyers and analysis of written documents (ie adoption applications, court decisions, reports by neuropsychiatrists etc).

I created a sample of interviews and ethnographic observations conducted with 15 French and Italian daughters and sons, 14 of whom self-identified as cisgender and one as transgender. The participants were aged between 3 and 32 at the time of the survey, came from families with a middle- to upper-class socio-economic profile and

⁸ The period of strong politicization of homoparentality started in France in 2012 during the preparatory works of the law on same-sex marriage, while in Italy it began in 2015, during the public debates surrounding the parliamentary discussions around the law on civil unions. For an overview of legal initiatives and debate concerning same-sex couples and their parenting rights before 2015, see Moscati (2014).

⁹ Most interviews were carried out in person, and I invited participants on site to meet them. In a very few cases interviews were conducted online, due to the fact that some grown-up children had moved abroad. Online interviews usually lasted between one and two hours. I have also communicated with the children on numerous occasions through several means (in-person meetings, online interviews, instant messaging).

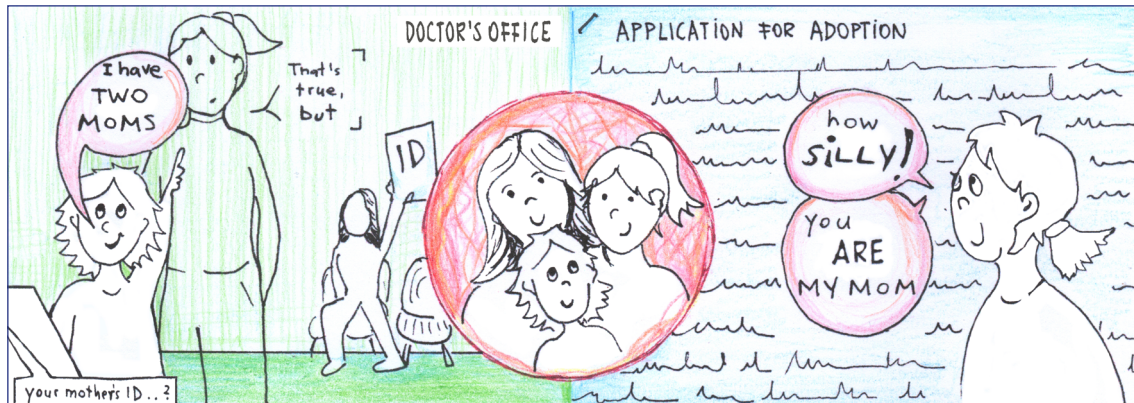
had between zero and three siblings. Their parents were sometimes still together, sometimes separated.

If extensive academic debate has focused on child-centred methodologies and on restitution (Razy & Ors 2022), little attention has been paid to translating child-centred ethnographies into description and analysis. Thus, this research aimed at filling the gap.

The ethnographic data of this research underwent a collective process of analysis and translation into a performative text through several steps. Sarcinelli carried out a first-level analysis and shared it with Weissensteiner who then visualized and translated it into sketches and visual maps. This in turn inspired conversations and reflections. Visual methods enabled a different form of analysis: “The creative forms engender a way of thinking that, each in their own way, moves from rational to associative or intuitive, from linear to circular” (Sarcinelli, Weissensteiner & Ors 2022: 154). A constant movement between fieldwork data, analysis, visualization and textual representation enabled further developments of the emerging shared reflections as well as new drawings. In this context, drawing is to be understood as a *verb*, not a noun, a practice that is primarily process-oriented and not product-oriented (Agerbeck 2016).

Additionally, this contribution integrates visual elements. One

may “read” the visualizations simply as classic ethnographic vignettes translated into illustrations; as visual vignettes that resemble research-based graphic novels that have emerged through the graphic turn in social science (Atalay & Ors 2019). However, the process of production did not consist of translating a descriptive narrative into images. Analysis is embedded in the published drawings themselves, creating a “multi-layered surface of interpretation and meaning” (Weissensteiner in Sarcinelli & Ors 2020: 146). Legal scholars have argued that the visualization of law and of legal process is still “an opportunity missed” (McLachlan & Webley 2021). The drawings contribute to expand practices aimed at “visualizing law” (McCloskey 1998) and move beyond concept- or process-maps. This article examines the experiences and voices of children in relation to plural spaces of kinship and recognition procedures: readers may notice the colour coding of spatial data in the illustrations, as well as the ways that relational elements are also visualized through the direction of gesture and speech. The choice of using illustration is hence not meant as a form of “child-friendly restitution” nor as an output for non-academics, but rather a “creative ethno-graphic practice” (ibid)—namely a creative and alternative means of expression that has been used in all phases of the research.



Visualization No 2: Children’s awareness and sense-making through practical kinship

[C] CHILDREN’S AWARENESS OF THEIR LEGAL KINSHIP TIES

Visualization No 2 engages with children’s awareness and sense-making through practical kinship. Like most children, sons and daughters of lesbian couples understand very early who their parents are from a social point of view, but not from a legal one. Even children of the most militant couples are often unaware that they lack legal kinship with one of their parents (Sarcinelli 2019-2020). Their early childhood is mainly spent in the everyday spaces of kinship (intimate and domestic settings), where they first learn a “kinship repertoire”, that is rules and social norms regulating family practices and the proper exercise of kinship (ibid). The prevailing repertoire in these spaces is that of intended kinship

as opposed to the heteronormative one prevalent in administrative and legal spaces of kinship based on “being kinship” rather than “doing” it. Once children start to actively circulate in other spaces, they find themselves thrown into this new kinship repertoire which they do not quite understand. Let us take, for example, this Italian case:

Rebecca¹⁰ (5 years old) arrived at a dermatological consultation with her two mothers: Sara queued with her, while Monica (the legal mother) waited seated. No matter how many times Monica told her companion: “Take my documents right away, because afterwards you’ll forget,” Sara didn’t. When it was their turn, the receptionist asked for the mother and the child’s IDs. Sara said loudly towards the other side of the office: “Moni, I need your ID!” The receptionist, a little impatient, asked Sara, “What about your identity card?”. When Sara replied,

¹⁰ In order to protect anonymity and confidentiality, all names and some personal information have been modified and replaced by sociologically equivalent information.

“It’s on its way”, little Rebecca interjected, “But I’ve got two mothers!” And Sara responded: “That’s true too, but they don’t want my ID, they want the other one’s.”

Rebecca was suddenly confronted with the logics of legal kinship in this ordinary situation. Some children are unaware until major events occur, such as an adoption application or upon the intended mother’s registration on the identity card (Visualization No 2). For example, following the legal proceedings initiated by his mothers, Luigi used the expression *“fratelli di legge”* (brothers by law) when talking to me, in order to indicate that he was referring to another concept of brotherhood than the one he usually meant in our discussions. Finally, other children are confronted with legal kinship when the issue of homoparenting becomes politicized (such as the passage of the laws on Italian civil union or French same-sex marriage).

Lucia, 16 at the time of this specific interview, who was always aware of the lack of legal recognition, felt it was not really acknowledged for a long time:

When I was little, I never thought about that [lack of legal recognition], because in my head it was as if

they’d always been there. I’d never given any thought to the fact that my mother Vale wasn’t my mother, because as far as I was concerned she was, full stop [...] I remember that from that moment – for the law – my mum Ylenia, my grandmother Elena and that whole part of the family would have become legally legal. And I remember that for me it had always been the case. I didn’t know that they weren’t recognized by the law. [...] Maybe they did tell me, but in my head it was like that. I had never acknowledged it.

In the next section, we will show how children perceive the procedures of legal kinning.¹¹

[D] THE LEGAL INEXISTENCE OF INTENTIONAL TIES: A (LARGE) PROBLEM FOR PARENTS, A (NON-)PROBLEM FOR CHILDREN

To understand how children experience legal kinning, we need to analyse how their voices emerge within internal family issues and concrete settings, as well as within the wider, social, political and institutional context of kinning. First of all, we need to consider

¹¹ By the term “kinning” we refer to Signe Howell’s definition as “a universal process” through which a “foetus or new-born child (or previously unconnected person) is brought into a significant and permanent relationship with a group of people that is expressed in a kin idiom” (2006: 63). The kinning process is thus the effort of incorporating adoptees into a network of kinship.

how mothers present the legal procedure to the children. Although mothers generally act according to the repertoire of intention, they also feel the urge to obtain legal kinning both to protect their children and as part of a struggle for recognition (Honneth 1996). However, this urge can vary according to the family configuration or the degree of conflict within the couple, which are in part due to the asymmetric relations between the mothers because of the unbalanced legal kinning. Let us consider the case of two French children: Kelly, 34 when we met, whose mothers split up very early and had conflicts over childcare, and Élise, 32, who grew up in a non-conflictual family.

When asked if, as a child, she was informed or became progressively aware of the legal status of her mothers, Kelly answered:

The legal aspect was very present, very early on, because my social mother, in fact, spoke to us [the children] a lot about this. She suffered a lot from this inferior status from a legal point of view. And so, she often made this clear to us, she also had this fear of being ... precisely this risk of being abandoned because she had no link with us, and ... she very early on communicated to us the desire to adopt us, so

Contrary to those children who discover the issue of adoption at a

given moment, for Kelly it had been an omnipresent question:

It was always with the argument of inheritance in mind, “well, I’m going to die soon, I want you to inherit”, that was basically the reasoning. [...] as her father died earlier [...] and when her mother died around 2016, it was urgent for her to, well ... to leave us an inheritance.

Wills and the possibility of a conflictual separation were also recurrent in Élise’s family:

She [intended mother] talked a lot about wills, in fact, with the idea that if something happened to Mum, I should have the papers drawn up as much as possible so that her inheritance went to me and didn’t go back to her family

Children do not really understand the mothers’ concerns around inheritance:

We [the siblings] always kind of put that aside, because we were in the mode of “no, you’re not going to die, that’s stupid” [laughs] completely stupid ... (Kelly).

I never conceived the idea that Mum could have done that ... could have split up with Nina [intended mother] and prevented her from seeing me [...] this fear I’ve always found a bit unfounded because even on my family’s side they knew the situation

very well and in fact they would have listened to what I wanted. (Élise).

Kelly's and Élise's were among the first French families who, in 2014, could adopt; theirs is not only a personal and familial matter, but also a collective one. However, the children felt indifference towards adoption, seen as normal yet unnecessary:

At first I was quite ... well not opposed to adoption, but rather indifferent. [...] I didn't necessarily have anything to say about it ... [...] it was an economic issue as well, obviously a symbolic recognition too, but the two were fairly equivalent. [...] After all, we've [the siblings] always been in favour of being adopted, of more equality, that's for sure. When it came to doing it, it was obvious. (Kelly).

Nina adopting me was ... normal. Well, yes, it was normal. After that I was 16, so it wasn't ... 2 years later I was going to be of age, there was no need. In any case, if at that age something happened to Mum or they separated or something happened to Mum, I'd have had my say. (Élise)

These children didn't have real reasons to be opposed to adoption, but rather reasons to support their mothers' needs:

I understood that for them [the mothers] in terms of the papers it was important, so there was

no problem. Adoption was never a problem, for me it was normal, it's something that should have been allowed from the moment I was born, even the term "adoption", I find it silly because for me she didn't need to adopt me, because she was my parent from the outset. (Élise)

Kelly and her sibling had an additional reason to support adoption, namely the fact that their legal mother resisted agreeing to adoption, so they felt a responsibility to contribute to the debate.

Kelly's and Élise's cases are representative of the experiences of many children I met, namely that they had to reappropriate the logic of the repertoire of the law that does not make sense to them but still proves to be critical for the mothers, despite raising the children with the intentional kinship repertoire. The day when the intended mother becomes a legal mother is unforgettable and extraordinary for the parents, marking the transition from not-kin to kin, whereas children's experiences depend on the specific situation. For some, it was an ordinary moment. They hardly remember it or they only recall the new picture on their ID card, the route they took to go to the office or the fact that they went from their rural town to the city:

It wasn't special, at all, I don't know. Knowing them [the mothers], I think we

might have gone to a restaurant because we were in Tours, but I don’t even remember [laughs]. So, I ... no, it was just something to do. Yeah, it was normal. (Élise).

Some Italian children were completely unaware of what transpired or did not participate: Adriano, four years old at the time, was not informed that an adoption procedure was taking place and the social worker who visited their home was introduced as a friend of her mother’s; neither Lucia nor Giorgio were present when the mayor signed the new birth certificate. Alternatively, Claudia (5 years old) attended the public “ceremony” where the mayor of the city signed the certificate and she presented him with a drawing she had made which was published in the newspaper.

What varies is also how children participate in the procedures for adoption and those aiming at issuing a new birth certificate. In the case of birth certificates, only teenage voices count. In the case of another Italian family, Margherita, the oldest of four siblings, was 16 when the mayor of Milan issued the new birth certificate. Because of her age, she was the only sibling whose permission was requested by the mayor before he added her mother to the document, during a publicized event. As the daughter of two well-known activists, known also to the mayor of one of Italy’s

larger cities, Margherita’s legal kinning with her intended mother was a public, mediatized and political victory.

Also when the right to be heard in judicial proceedings affecting children is formally respected, this does not *per se* guarantee that it is meaningful to the children, nor that their legal voice will be taken into account. Take the case of Élise, French, also 16, who experienced a judicial proceeding for adoption and who did not feel that the consent she gave was meaningful. She first gave her consent alone in front of a notary without her mothers being with her, and then had to give consent again during the proceeding in court:

I just remember going to the notary to give my consent and sign. [...] Did I read the papers, I don’t know, maybe. And then I remember going to court, same thing, to give my consent. And that was it [...] it was pretty smooth. [...] It was a small-town court, there were lots of people in the room, they were going through the cases one after the other. At one point it was our turn, we stood up, I don’t know, maybe we had to agree or say that’s what we wanted, I hardly remember, then we sat down, left and that was that. I was struck by the insignificance of the whole thing, because I’d never been to court before.

Children's perception depends on the setting of the single legal recognition. It is not surprising that for Élise:

there was nothing to celebrate in fact because it was the same thing. It was more symbolic, and it didn't really change anything. I think the only time it's going to be felt is when there's something legal, something legal like a death perhaps, that's when it can be felt, but that's all.

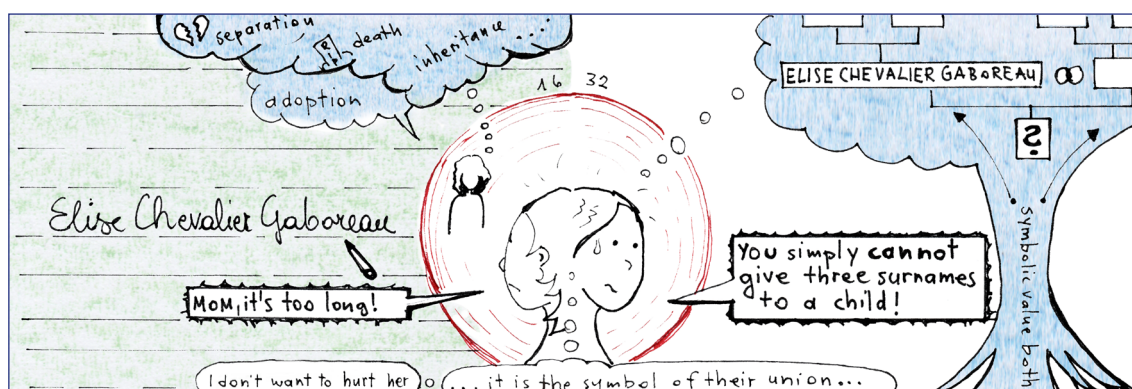
On the other hand, Margherita's recognition was followed by a celebration inside the municipality with the presence of the mayor and an activist organization and filmed by the media. To sum up, these experiences show that how the voices of children emerge depends on internal family issues and concrete settings, as well as on the wider, social, political and institutional context of kinning.

Let us now consider what most children refer to as an important change within the process of legal recognition, namely the addition of a surname.

[E] WHAT'S IN A NAME: THE OBJECTIFICATION OF KINSHIP OR PERSONAL IDENTITY?

Martina Stucchi (Italian, 12 years old at the time) cried when her parents suggested adding the intended mother's surname Luppi to her name. She cried at the thought that adding that surname would change her position in the alphabetical order of her class at school: "I'm not going to be an S any more", she had exclaimed. Her intended mother, Laura, told her that adding the surname would have helped their struggle to have their family legally protected. Laura reassured Martina that, if she wanted to rechange her surname at the age of 18, Laura would cover all costs for the procedure.

From the intended mothers' perspective, the possibility of passing down their family name has great symbolic value. From the perspective of the children, it



Visualization No 3: ... in my name.

is often considered a problem: they have not initiated this procedure and it is not their necessity and choice to change the surname used to identify themselves, especially at school. As anthropological literature has extensively shown, names objectify kinship, but they are also a space to assert identity (Fine & Ouellette 2005). Therefore, the name change is the locus of a tension between mothers (whose aim is to objectify kinship) and children (for whom name changes question their identity affirmation).

The suggestion to finance a new name change at the age of 18 shows the different temporality between Martina’s concern which is her identity affirmation “here-and-now” and the temporality of the solution proposed (6 years later). At 15, Martina revisited that moment:

It had made an impression on me- the fact of becoming the letter “L” and not “S” in the alphabet. I go from the last third of the alphabet to the middle. Worse still, I already wasn’t fond of Stucchi [...] When you have to sign up for something, you have to say Stucchi and they don’t understand you, you have to repeat it two or three times ... Say LuppiStucchi ... In the end it [the surname] wasn’t changed. I got a little lost as to why!!!

Ultimately, Laura decided not to impose such a change, and, at the moment of our last conversation, she is waiting for the siblings to

make the final decision once they turn 18. Over the years, Martina’s affiliation with her intended mother and her family has increased (ie intended grand-parents, intended uncles and aunts etc). Now 16, Martina is more concerned that her and her brother Giulio does not have the same surname as each mother gave birth to one of them. Thus, she has progressively accepted the idea of changing her surname:

After a while, I understood that it was something that would happen and I said “ok, no problem”. Recently, the subject came up again and I told my mother Laura that there was no problem. But she said that it is something we will do once we turn 18, but I am not sure because Giulio turned 18 this year and nothing changed. So, to be honest I don’t know. I thought that at 18 we would both change our last name. You should confirm with my mum. Anyway, changing it is still an option and I have no problem with it.

The quote raises questions like: whose choice is it? Are the mothers just suggesting adding a surname or are they letting their children choose? The terms that Martina uses (“would happen”, “I don’t know”) reveal this ambiguity. Élise’s relationship with her surnames furthers the reflection:

The only thing that bothered me at the time was that they’d changed my

name, because “Chevalier-Gaboreau” is a very long name. I was already 16, so I also didn’t want them to change anything that I didn’t want to be changed, it was a bit of an attack, I don’t know ... I didn’t understand why anyone would impose anything on me at that age.

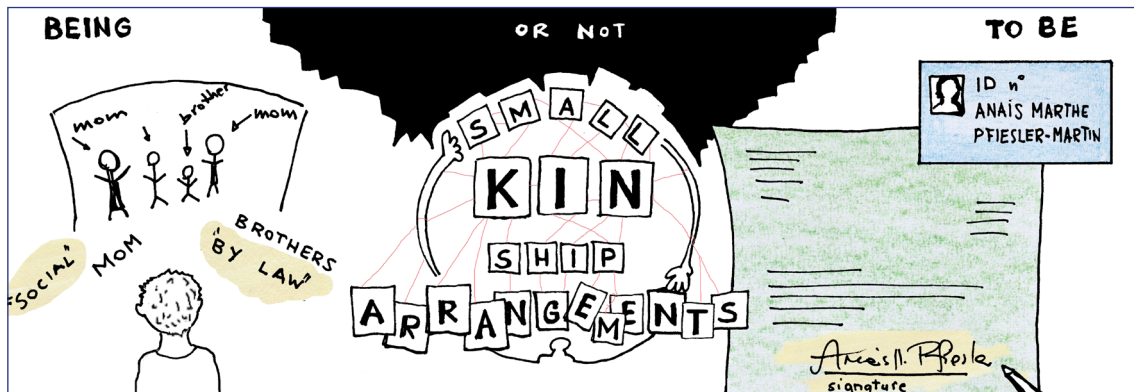
When Élise said that she didn’t want to change surname, her intended mother reacted in an aggressive way as she recalls : “I remember telling her, ‘But no, I don’t want anyone to change my name’, and, and I think she was hurt, she shouted at me a bit and it didn’t go down very well, so I had no choice.” Élise describes the change of her surname as “a bit of an attack”, an imposition, a non-choice, something over which she didn’t have a say. In Visualization No 3 we see Élise struggling with this imposition. Opposing from a practical point of view the change, she exclaims to her mom that such a name was simply too long to write. Notably, she acknowledges the symbolic importance of her surname for her intended mother, but not for herself.

In the case of Kelly’s sister, it was the judge who seems to have imposed the name:

Our mothers had given her [my sister] a middle name which was the equivalent of my mother’s social surname: so she was called “Anais Marthe Pfiesler”, the female equivalent of Martin. Accordingly, the judge,

how shall I put it, got a bit sensitive about it and my sister didn’t actually want to change her surname, she wanted to keep her name as it was. [...] Because she already had more or less that name, and she thought it was absurd to be called “Anais Marthe Pfiesler-Martin”, it was a bit long. For the judge, it was unthinkable that we could have two different surnames. Me and my sister ... we had to have the same surname, otherwise it wasn’t possible ... so my sister was a bit confused at the time, but in the end, she said OK.

At the suggestion of adding a name Martina cried, Élise fought with her intended mother, whereas Anaïs was confused in front of the judge. From the adult perspective (the mothers’, but also the judge’s), the entire family needs to have the same surname. Did the adults intentionally silence the children? As Ann Lewis (2010) points out, the elevation of children’s voices has become a moral crusade that has sidelined consideration of the issues surrounding the very practice of revealing these voices. Sirkka Komulainen (2007) highlights the moral dimension of asserting children’s right to speak and underlines the ambiguity and complexities of communication between adults and children. In the ethnographic cases presented, children ended up accepting adult’s suggestions not only because of



Visualization No 4: Being, to be, not to be/to be not: small kinship arrangements.

the existing power relationship between adults and children, present in queer families as well (Hiffler-Wittkowsky 2023), but also because the repertoire of filiation prevails. Moreover, children prefer to accept the loyalty demands of their intended mother, whose existence has been institutionally silenced until then:

She’s proud that my name is “Chevalier-Gaboreau”. When I write something, I have to put down “Chevalier-Gaboreau”, otherwise she says “well no, you’ve forgotten Gaboreau”, she doesn’t feel recognised. (Élise)

Choices concerning adoption and surnames are more or less imposed upon or accepted by the children who, nevertheless, manage to rearrange such choices under the form of “small kinship arrangements”, namely negotiations, adjustments and shifting that, while not always remarkable, are more or less intimate and well thought-out (Sarcinelli 2020). For example,

Anaïs accepted the judge’s choice, but in her everyday life she uses her original name instead of the official one (Visualization No 4).

Following Kallio & Häkli (2011), the political dimension of children is implicit and emerges in their everyday life negotiations. Meanwhile, the perception of the weight that their own voice should have, grows over time; older teenagers like Élise have stronger reactions to the surname imposition. Moreover, the voice of each child is not static but continues to change throughout the course of life. Martina gradually affiliates herself more with her family and thus sharing her sister’s surname trumps her identification with her own. Once married, Élise re-affiliates to the family she created and her perspective on the surname changes, as in Visualization No 3.

My name is symbolic because it’s the name of the union of my parents who fought for it. My husband’s name is symbolic because it comes from an indigenous

group, so we both have these symbols and we know very well that you can't have three last names. So what happens now? Well, we don't know, we haven't settled the question. It's been two years and I think the question will come up the day we have children.

The analysed cases show that the question of naming holds a different meaning for children and adults: for children it is the expression of their personal identity; for the adults it is the objectification of kinship. The extent to which children can make their voices heard on this subject varies according to the particular situation, but also over time as they grow up.

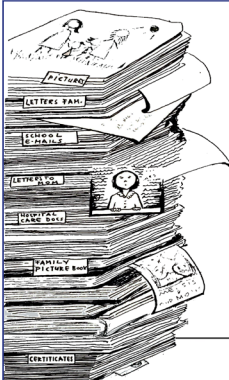
[F] CONCLUSIONS: CHILDREN AS SUBJECTS (OF RIGHTS)

In conclusion, let us re-engage with Article 12.2 of the UNCRC, quoted in full in Visualization No 5. The terms used are very informative: “the right to be listened to and taken seriously in judicial and administrative proceedings affecting children”. Here children are notably passive subjects of rights: it is not the right to speak, but rather to be heard; not the right to shape the procedures, but rather to be affected by them, not the right to kin their social mother, but the rights to be kinned by her. Exercising their voice is dependent

upon others. “To be heard”, then, requires setting the conditions so that this voice can emerge both in domestic kinship spaces (ie discussions about adoption and surname changes) and in public ones (ie the notary, the court or the municipality).

In domestic spaces, children found themselves forced to choose between being faithful to the family fight for kinning rights and to their own need to preserve their personal identity expressed in their surname.


In public spaces, children's legal voices are literally quashed by the bureaucracy. For example, in the case of Lucia and Giorgio's adoption application, whilst lacking children's voices, it was substantiated by a mountain of official documents. Their application included family pictures from 2006 to 2017, tax returns of both mothers from 2014 to 2019, school documents beginning from preschool, eight register office certificates, six documents from the clinic where ART procedures were performed, 11 written testimonials from friends and professionals, two medical documents and notary documents. The children's voices emerged only through the inclusion of a few school projects describing the family and the story of the family, as well as in two family trees realized by the anthropologist with the children.



Convention on the Rights of the Child
General Assembly resolution 44/21, 1989

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.



Visualization No 5: Article 12 UNCRC

In contrast to Article 12.2 of the UNCRC, children’s voices have little space in the procedure, yet become symbolic and appear in the media through their drawings or interviews. Thus, the point is not whether children have a voice or not, but rather when and in which spaces this voice emerges, is drowned out or silenced. The ethnographic gaze can inform us about the social and cultural contexts and the nature of the moral communities shaping children’s voices, as well as children’s ways of reappropriating the decisions of adults through small kinship arrangements. This calls for a relational approach to the law focusing on the interdependence between adults and children (Ronfani 2006).

Moreover, children’s voices are to be redefined in relation to time, kinship spaces and interlocutors, recognizing the historical and situated position of children (Spyrou 2011). The cases analysed here refer to a specific generation of French and Italian lesbian-parented children. Meanwhile, the

political and legal framework has changed. French children are now born with two legal mothers.

In Italy, the legal system still lacks full legal protection for same-sex couples and their children. Thus, according to our data, same-sex partners who would like to adopt their partner’s child/children, are advised by lawyers to submit the application for adoption in the early months following the birth of their child.

In contrast, the previous generation of parents were urged to obtain legal status and the right of the mother to kin her children seemed to prevail over the child’s right to keep their surname. Yet, the relation between children’s and parental rights, as well as interactions between the family and the state, were already far from being linear and free of tension. An ethnographic analysis of “the thin line of demarcation between the responsibility of parents and the agency of children” (Ammaturo 2019: 1152) showed that children were not at all against legal kinning,

but they had to make sense of plural kinship repertoires. We considered the combining logics and different temporalities: the “here-and-now” of children’s kinship voice versus the urge in the present to facilitate the future of their mothers. To conclude, we should acknowledge the role of the state in the definition of hierarchical relations between

family members, especially in minoritarian configurations, as well as the fact that the political discussion calls for the recognition of the parents’ right to kin their child, and never for the children’s right to kin their parents.

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