12   Children in Need of Care

Bana ba tshipa tshwaraganang fa lo kgaogana loso lwamogotlha.

The wildcat's children cling together; separating them invites disaster.

'They understand informal fostering – that is the practice we are all doing. It's foreign when we talk about making it legal. That's what is putting us in trouble. But if there are no relatives, we need law.'

Tumelo and I sat on either side of her wide desk in pools of shadow left by the daylight filtering in through her office windows. It was an unusual moment of quiet. I had visited her previously at the simple concrete block adjoining Water Affairs that served as the Social and Community Development office, hidden from the highway by a string of bars. But on past occasions she had been beset by long lines of caregivers, groups of young people, or the spreadsheet report listing her orphaned clients by name, surname, age, and ward that was to be submitted to Social Services every month. Diminutive and feisty, Tumelo was energetic to the point that I found it difficult to keep up with her; she spoke quickly and changed topics at lightning speed. She was passionate, humble, and quick to laugh, and she had a particularly mischievous, conspiratorial smile.

Tumelo was the social worker who ran the Foster Care Pilot Programme in Dithaba for its duration. When the pilot was launched in 2007, I was responsible for its orchestration at Social Services, in conjunction with a major national NGO. In the programme's initial phase, we had identified a number of priority districts – including Tumelo's – and run in-depth training for teams of social workers in each. But, to my knowledge, only Tumelo's office had gone as far as recruiting parents and placing children.

The idea of formal foster care was still unusual but not altogether new to Botswana when the pilot was undertaken. Social work degrees at the university had long involved a core course in managing foster care, and detailed procedures had been laid out in common law under the *Children in Need of Care Guidelines* (RoB 2005a). The guidelines provided for the temporary removal of children from their families, by a government

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social worker, in cases where professional assessment had raised significant concerns of neglect, abuse, or other pressing issues affecting the child's well-being. Especially in cases where suitable extended family could not be found to take in the children immediately, the guidelines proposed that banks of vetted foster parents from the local community should be trained up for the role, to minimise disruption in the children's lives. The ultimate aim was to work with families to address their issues and enable the return of children to their original households, or to negotiate their long-term placement with other suitable kin. In the context of the AIDS epidemic and perceived breakdown among extended families, social workers customarily expressed an urgent need for 'alternative care' for children, and many were concerned about the overcrowding and inappropriateness of institutional places of safety in this role. But they were equally uncomfortable with the notion of formal foster care. The guidelines had been ten hesitant years in the making, and by 2007 they had seldom been deployed in the removal and placement of children for whom they made provision. The problem was, according to my social work colleagues and my neighbours in Dithaba, that fostering the children of non-kin was fundamentally un-Setswana. Unsurprisingly, then, while the programme was the first of its kind, it had lapsed between my departure from Social Services and my conversation with Tumelo – although the NGO concerned was working diligently with a few remaining government supporters to revive it.

'I'm not sure how it came to Dithaba,' Tumelo admitted, as we reflected on the programme's beginnings. 'There were so many problems there at the time. Property grabbing was a serious issue.[1] Family conflicts.' I asked her what she meant. 'Conflicts can be caused by lots of things – maybe jealousy of relatives, fighting over property, or just lack of understanding among siblings. Anybody can report it, though it might not come out clearly that it is conflict, but reading between the lines then one can see.' I was struck by how mundane the sorts of conflict she was describing were – they were the sorts of everyday *dikgang* I had experienced living with the Legaes. But Dithaba was often singled out as having been particularly hard hit by AIDS from the start; the subtext of Tumelo's comment seemed to be that these mundane conflicts were

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[1] 'Property grabbing' was a key issue at the height of the AIDS epidemic in Botswana. Generally, it was cast in terms of unscrupulous relatives taking advantage of uncertainty around the inheritance of a dead person's property – especially land – to dispossess the partner and children of the deceased. Dispossession was especially common in cases where the deceased and his or her partner had not been officially married, in which case the partner and children had no clear customary rights to the deceased's property.

more serious, more numerous, or more frequently referred to social workers as a result.

Tumelo described how she managed the programme as it unfolded, from her two-day training workshop in the capital to the process of briefing the *kgotla* (customary court), the village development committee, and district councillors on the initiative. 'They all knew cases' that they thought appropriate for formal fostering, she noted. Rather than put out a call for volunteers, Tumelo worked in collaboration with these key village representatives to select roughly 20 women who could form a 'bank' of potential foster parents. They applied a range of criteria in their deliberations. 'These were women who knew how to run their families,' she explained of the candidates, 'and know how to care. They have a heart for children, and love.' Their families were stable; many were married, though not all; the number of their children was comparatively few, or the children were already grown up. The women were not necessarily wealthy but managed what they had well. When the women were called to a workshop on the new programme – covering parenting skills, children's rights, and relevant laws, to which most of them would not have had formal exposure before – all came.

During the pilot, Tumelo had arranged a single removal and placement in the village, for three boys ranging in age from 9 to 13. They had been staying with their grandmother, but there had been fights among the family about food and over who would care for the children. Recounting the case, Tumelo didn't go into detail – partly out of professional discretion, perhaps, but largely because it was a familiar narrative in the orphan care field and scarcely bore repeating. As we have seen, government provision of food baskets to the caregivers of registered orphans is widely understood as a source of significant conflict and competition among extended families – and as symbolic of their fundamental fractiousness, ruthlessness, and untrustworthiness as care providers for children. Again, the issue struck me as mundane, particularly as a justification for child removal. Tumelo left me to 'read between the lines'.

In handling the case, Tumelo went to the *kgotla* first, accompanied by the boys' grandmother and a letter written and signed by the prospective foster parent, Mma Dineo. 'It was an emergency situation,' she explained; she planned to follow the official legislative route, through the Children's Court in the city, later on – though in the end they never did. But, she pointed out, 'even if it can go to the courts, it has to go back to the *kgotla*; whatever is happening should be reported there'. She described the *kgotla* as a repository of local knowledge in which the movements of children and the promises and obligations of families should be stored – even (and especially) when the children and families

themselves had lost track of them. A woman active and outspoken in local child protection initiatives, Mma Dineo had also been insistent about taking the proceedings through the *kgotla*. 'She was very cautious,' Tumelo reflected thoughtfully; 'I'm not sure what about. *Hei*! That lady can talk,' she added, noting with some chagrin Mma Dineo's frequent visits to the social work office with concerns and complaints about her charges.

The boys had wanted to go to boarding school but instead moved in with Mma Dineo. Everything went smoothly at first – until the food basket and other government resources attached to the boys' care followed them. Officially, the guidelines on formal foster placements explicitly forbade the provision of material support or remuneration to foster parents, in order to ensure that people did not take children in for 'the wrong reasons': exploitation or personal gain. In practice, however – especially given the connection between care and material support in Tswana understanding (Part II) – social workers and trained foster parents all expected that some compromise would be necessary, particularly if children were to be kept in their home villages. Reassigning government provisions to follow the children was the most obvious compromise to hand. The boys' grandmother became furious with the arrangement and made her disgruntlement clear in public scenes at both the social workers' office and Mma Dineo's place. 'I guess it was just jealousy,' Tumelo explained, downplaying it, although the public exposure to insults of wrecking a family was no doubt a challenge even to the staunch Mma Dineo. Ultimately, Tumelo stressed, it did not derail the placement.

Shortly afterwards, some unexpected family turned up. One of the father's younger brothers came looking for the boys, offering to take them. He said his family was angry and they wanted the boys back. The boys seemed to want to go back, too. 'When we arranged for the boys to be fostered we didn't know about those relatives,' Tumelo explained, matter-of-factly. 'We only found out about them after they came to find the children.' Knowing that social workers were generally quite thorough in tracing extended families, I asked how they had been overlooked. 'We didn't really expect help from them,' Tumelo explained, 'and they were difficult to find.' To reduce confusion, the father's brother was initially turned away. After the boys were settled, he was called back, had the situation explained to him, and signed off on the placement as well.

A little over two years later, the man returned and offered to transfer the boys to the junior school in his village. 'The family felt they had completed their punishment,' Tumelo explained, paraphrasing his

rationale. 'So the boys went. But I just heard on Saturday that they want to come back to Dithaba. They are spoiled. I told Mma Dineo and the family, just accept them, they are children, don't fight with them.' Her complaisance seemed strange given the active role she had taken in their removal, placement, and later movements.

'The placement was a success,' Tumelo decided, after some reflection. 'Maybe people feel deeply bothered by children being taken out.' She shrugged. 'To have the option of fostering is good.' She noted that several of her current clients had had to be placed in a local place of safety, which she felt was overwhelmed and often ended up 'chasing' children back out to the social workers. 'I'm not sure what institutions add,' she mused. 'Fostering is a way of teaching them it's very important to have a family.'

Tumelo's account makes plain the ways in which formal foster care in Botswana differs sharply from its antecedents: the informal circulation of children among kin and between non-kin. Again, these differences revolve primarily around approaches to *dikgang*. Circulating children among extended kin might be seen in terms of delegating responsibilities of care beyond the usual contribution-oriented economies and their conflict-management strategies, creating perpetually irresolvable *dikgang*; taking in non-kin as a suspension of *dikgang*, which neither exacerbates nor addresses them; and formal fostering as a deliberate attempt to decisively resolve *dikgang*. Where the first two reproduce appropriate distances of relatedness, the last risks conflating and collapsing them, offering not simply a temporary alternative family but an alternative model of kinship in its place.

Tumelo's description of the *dikgang* arising among her client families is familiar from the sorts of conflicts we have seen already. While she did not explain how such issues were initially brought to her attention, it is most likely that she would have first come into contact with the families when they registered for the government orphan care programme. She may have been called on to settle intransigent disputes by the family itself, particularly if there were any conflicts over the food basket. Especially intractable problems at home may be handed to government institutions such as the police, clinics, and social workers – generally in the hope that the handing over itself, rather than any solutions that might be engineered, will help preserve the delicate balance of obligations and responsibilities, power and care, within the family. In this sense, families might envision the social worker's intervention – including the placement of their children in temporary formal fostering situations – as simply a first step in the process of negotiating an ongoing family issue, or as a temporary suspension of that process.

However, in cases like those described by Tumelo, removing a child into formal foster care presents a problematic set of knock-on effects. The child himself, for example, is seldom the singular focus of *dikgang*, which reflect wider kin dynamics and demand reflection on the trajectories and quality of specific relationships. Battles over property or responsibilities of care and misunderstandings between parents or among their (often co-resident) siblings may all affect a child, but they seldom take the child as their object. A mismatch emerges between the family's positioning of the social worker as an extrafamilial actor whose involvement might usefully suspend *dikgang* until the status quo can be re-established, and the social worker's dual mandate of protecting children and achieving lasting fixes to family crises (whether in specific cases or by promoting alternative models of being kin). And this mismatch is exacerbated by a certain myopia on the part of the state; in spite of social workers' best efforts in tracing families, the burden of their caseloads makes it virtually impossible for them to recognise the full range of kin affected, how they are affected, and how they intend the social worker to be involved. No wonder, then, that the boys' father's brother saw the removal as a punitive gesture rather than as a means of resolving the *dikgang* with which the social worker was presented in the first place. Critical capacities and responsibilities to contribute care for the boys (and for them to make their contributions in turn) were not only drawn into question but cut off; the ability to resolve *dikgang* appropriately in ways that involved them was removed, and the repercussions for reciprocal obligations between adults and children rendered deeply uncertain. In other words, the processes critical to forming kinship with, through, and around the boys had been foreclosed.

Worse than this, the family to which the child is removed is drawn into potential *dikgang* with the child's natal family. The loss of the child, their work in the home, and any contributions of care they can mobilise is a source of serious bitterness and ill will towards the fostering family, as the grandmother's fury and public insults demonstrate. In this situation, the social worker is the primary arbiter of conflict, rather than the child's natal family. As Tumelo's irritation with Mma Dineo suggests, the position of arbiter is hardly a welcome one for social workers: not only are they overwhelmed with their caseloads, but of necessity they are entirely disengaged from the day-to-day life of their client families, especially their conflicts – which require a great deal of unavailable time and effort to address. Most social workers will therefore hear out an issue, and perhaps offer advice, but will not re-enter the fray. Natal and foster families are thus drawn into kin-like (and kin-affecting) *dikgang*, without the means of resolution that might build connections between

them and contain the risks that conflicts pose. As Erdmute Alber's informants in Benin reflected of their changing fosterage practices, contemporary 'fostering brings so many problems into the web of kinship that it is better not to take foster children at all' (Alber 2018: 146).

Beyond these new dimensions of *dikgang*, the formal foster parenting programme seems to presuppose and decree a certain ideal of closeness or intimacy between the foster family and the fostered child that – as we have seen – may be at odds with the more fraught affect that characterises usual practices of child circulation. The recruitment drive's emphasis on able parents, who 'know how to care', 'have a heart for children', and 'have love', and the social worker's willingness to ensure that additional material support is available to women who meet those criteria, are initial signs of this tendency. These attributes were, of course, appropriate to a Tswana mother; Livingston (2007b: 183) glosses them as 'moral superiority, a patient heart, and kindness' (see also Ingstad et al. 1992). But they are not necessarily the same traits expected of non-kin in looking after a child. Bonolo's example in Chapter 11 showed us that these characteristics on their own are not necessarily kin-making; indeed, the absence of similar discourse in describing parenting ideals (focused more on 'raising properly' or 'help') suggests that they are relegated to the background, or at least left implicit. But as fostering families are also drawn into *dikgang* with their foster child's family by the placement process, and unable to refer conflicts with the child back to his or her family or the social worker, they are placed in an increasingly isolated, replacement kin position.

Batswana may read formal fostering less as a matter of taking children out of dangerous families to safety than of bringing an entire network of non-kin into a level of partial intimacy and irreconcilable conflict that may make those non-kin themselves especially dangerous. In contrast to informal child circulation, formal fostering seeks to extend, supplement, and replace family; and, in the attempt – which can be only partially successful – it spreads the risk and danger associated with kinship instead of containing them. It presents, in other words, a worst-of-both-worlds scenario. Formal fostering interferes with the processes of differentiating kin that child circulation usually enables, thereby producing 'a kind of contagion, a moral degeneracy' (Wagner 1977: 624) that people register when they describe the practice as 'un-Setswana'.

Legal rights in children were a key focus of early structural-functionalist approaches to child circulation and were used to distinguish adoption – where all legal rights to a child are transferred from natal parents to new parents – from informal fostering, where legal rights remain with the natal parents. In Tumelo's account, 'the law' makes a

slightly different distinction: between child circulation of the sort described in earlier chapters and formal fostering – not so much in terms of transferring rights, but in terms of offering protections and clearly structuring the roles, justifications, and processes of fosterage. In both, the crucial distinction the law makes is between arrangements made by, among, and through kin and those made by the state. As Tumelo's description of her first formal placement shows, 'the law' deployed is not simply Roman-Dutch common law, governed by the Children's Act (1981, 2009) and the *Children in Need of Care Guidelines* (2005), nor Tswana customary law, but a hybrid of the two.[2] This hybridised notion of law was used to assess the need for children's removal, to identify appropriate foster parents, and to anticipate any disputes that would arise, in part by identifying those who would mediate them (the social worker, but also potentially the chief). 'The law', in other words, takes responsibility for identifying and resolving *dikgang* among kin, displacing the ethical work usually undertaken by families. And, in turn, it reworks the boundaries between kin and non-kin. It requires and produces a muddling of intra- and inter-familial kin distinctions, of processes by which families manage *dikgang*, and of Setswana kin ideals. I suggest that it is the power that formal fostering gives 'the law' in deciding how families should work that makes many fundamentally uncomfortable with it – not least because it marks a fundamental inversion of what the relationship between kinship ethics, practice, and law *should* be. The 'un-Setswana' character of formal fostering also lies in the law's attempt to redefine kinship practice and ethics, instead of being modelled on and directed by them.

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[2] See Wanitzek (2013) for a description of the ways in which customary and common law are strategically woven together in managing fosterage in Ghana.