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Parenting through the lenses of risk and othering: Constructions of parental cannabis use in child protection court proceedings

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Abstract

The construction of parents' cannabis use in the context of child protection has far-reaching implications for how their parenting is perceived and assessed and for the decisions made regarding their children's lives. Yet little is known about the meanings various stakeholders in child protection processes attribute to parents' cannabis use. This paper aims to explore constructions of parents' cannabis use in child protection court proceedings and position them within a political and social context. A qualitative data mining method was used to examine 32 Family Court judgements in care proceedings that involved parents using cannabis in England and Wales. The analysis of the judgements revealed that most portrayed parents' cannabis use as a negative, deviant and harmful activity. Three constructions of cannabis use were identified: *cannabis use as a risk to children*, *cannabis use as proof of parents' deficits*, and *cannabis use as (responsible) self-medication*. The discussion considers the findings in light of two social and political processes that underpin child protection policy and practice: the adoption of a risk perspective and the manifestation of othering processes. Implications for policy and practice highlight the importance of developing a critical framework for responding to parental cannabis use.

1 | INTRODUCTION

Throughout the last four decades, cannabis use has undergone a process of normalization and become more acceptable within mainstream society (Dumbili, 2020; Hathaway et al., 2011). Nonetheless, scholars have noted the differential nature of this normalization process, in which social discourses and policies frame and construct cannabis use by those with power and social status as morally permissible and cannabis use by marginalized social groups as risky and threatening (Ghelani, 2020; Haines-Saah et al., 2014; O'Gorman, 2016).

The framing and construction of cannabis use are vital in the child protection system, where parents' cannabis consumption may be

considered a major risk factor (Price Wolf et al., 2019) with far-reaching implications for the assessment of their parenting and the decisions made regarding their children's lives (De Bortoli et al., 2013; Freisthler et al., 2017; Olsen, 2015). In the context of child protection, parental cannabis use has scarcely been studied as a phenomenon distinct from substance use in general, and has mainly been explored at the individual treatment level without attention to its social and political contexts. In a recent systematic review of references to cannabis in social work scholarship, Lavie-Ajayi (2022) found that between 1970 and 2018, the main body of social work literature presented it "without a discussion of the substance itself, with little or no differentiation between cannabis and other drugs, and as characteristic of

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problematic populations or behaviours". Moreover, little is known about the meanings attributed to cannabis use in child protection processes and family court proceedings.

Based on the premise that "child protection legislative, policy and organisational environments often individualise responsibility, particularly for parents, and downplay social and structural factors, including economic, cultural and social inequalities" (Lonne et al., 2015 p. 107), this exploratory study aimed to bridge the gaps in the scholarship by conducting a critical exploration of the social constructions of cannabis use in the child protection family court system in England and Wales. We employed qualitative data mining (QDM) (Henry et al., 2014) to gain an in-depth understanding of the possible interpretations of parents' cannabis use in care proceedings and the meanings attributed to it.

1.1 | Cannabis use and child protection research and practice

Cannabis is currently the most used illicit psychoactive substance in the world (United Nations Office on Drugs and Crime, 2019). Although its legal status and social legitimacy are rapidly changing, with many countries allowing medical use, some permitting recreational use and others giving low priority to policing it (Seddon & Floodgate, 2020), cannabis continues to occupy an ambiguous socio-cultural and legal position, and its normalization is both relative and differentiated in relation to different socio-political contexts and social groups (Taylor et al., 2018).

Whereas cannabis use in marginalized populations garners media, public and political attention, similar use by more privileged individuals flies under the radar (Haines-Saah et al., 2014; Lewis & Proffitt, 2012; Mortensen et al., 2020). Thus, although cannabis use still inflicts stigma on users throughout society (Roberts, 2020), its "consumption among minorities has been linked to deviance, dysfunction, and crime, [while] use among White people in affluent communities has been portrayed as normative and essentially harmless" (Ghelani, 2020, p.15). This differentiation is strongly reflected in the criminalization of cannabis consumption across the world. For example, in the USA, arrest rates of black individuals for cannabis possession are almost four times those of whites despite similar rates of use (Adinoff & Reiman, 2019), while in London, black individuals are charged with cannabis possession at five times the rate of whites (Shiner et al., 2018).

This ambiguous, differential and often contradictory framing of cannabis consumption is highly influential in the context of child protection systems and requires attention for two main reasons. The first is the overlap between the overrepresentation in child protection systems of black and mixed parentage children and those whose families live in poverty (Bywaters et al., 2020) and the racialized enforcement of cannabis prohibition (Shiner et al., 2018). Despite the high rates of cannabis use among parents involved in child protection revealed in various studies across the world (e.g. De Bortoli et al., 2013; Freisthler & Kepple, 2019) and the growing awareness of the social

determinants evident in both child protection and cannabis prohibition enforcement, we found that this overlap has been largely overlooked.

Second, cannabis consumption can play a central role in professionals' assessments of parental functioning and potential risk to children (Berger et al., 2010; Roscoe et al., 2018). However, legal statutes and practice and policy guidelines provide little guidance on how to evaluate the potential harms of substance use behaviour, and thus place significant weight on professionals' judgements and perceptions of the drug's harmfulness (Henry et al., 2018). Indeed, studies from the USA that addressed social workers' decision-making regarding cannabis use found that, aside from the legal status of the drug, workers did not differentiate between cannabis use and opioid use when substantiating decisions regarding children's risk of abuse and neglect (Freisthler et al., 2017; Price Wolf et al., 2019). These findings imply that workers may consider any drug misuse by parents problematic and therefore risky for children. Considering the sparse and inconsistent scientific evidence regarding the causality of the relationship between marijuana use and child abuse and neglect, this point is especially relevant in the case of cannabis (Stott & Gustavsson, 2016).

To date, the few studies that have investigated the relationship between parental cannabis use and the risk of child abuse and neglect (CAN) directly have produced mixed findings. For example, two studies conducted by Freisthler et al. based on parents' self-reports found cannabis use to be associated with relatively low levels of physical neglect (Freisthler et al., 2015) and revealed higher annual frequencies of corporal punishment among parents who used cannabis than parents with no history of use (Freisthler & Kepple, 2019). Nonetheless, these studies revealed no association between cannabis use and supervisory neglect (Freisthler et al., 2015), and a history of parental cannabis use was found to be associated with a significantly lower frequency of physical abuse than the absence of such a history (Freisthler & Kepple, 2019). Moreover, in another study, parents who used medical cannabis reported that they believed it improved their parenting by allowing them to relax and prevented them from raising their voices or hitting their children (Thurstone et al., 2013).

We found only two studies not based on parents' self-reports. The first (Freisthler & Kranich, 2022) found no association between the geographical availability of cannabis and rates of child protection referrals. The second (Donohue et al., 2019) found a positive association between cannabis use and the risk of CAN. Yet the potential of CAN taking place with hard drug use is significantly greater than it is with cannabis use, pointing to the need to differentiate between cannabis and other drugs.

1.2 | Contextualizing the study

The study sought to explore the construction of cannabis in public law Family Court proceedings in England and Wales. These are court proceedings initiated by local authorities due to concerns that

children are suffering or are likely to suffer significant harm attributable to parental care (s.31 Children Act 1989). These proceedings involve compulsory state intervention in private family life and may conclude with care orders that limit parental responsibility. If followed by proceedings under the Adoption and Children Act 2002, they may result in the legal severance of parental rights through adoption.

There are no absolute criteria for assessing the threshold of significant harm, which can involve ill-treatment or impairment of a child's health or development (s.31 Children Act 1989). Because care proceedings are a matter of civil law, court determinations are made on the balance of probabilities. While the concept of significant harm is broad enough to encompass the diverse circumstances of children and families involved in care proceedings, discretion is also subject to value judgements, subjectivity and external contextual pressures that influence the interpretation and application of the threshold criteria in practice (Harwin & Madge, 2010). Regarding her study of racially minoritized families' experiences of care proceedings, Brophy (2008, p. 91) has argued that while "there was no evidence that the 'significant harm' criteria are in need of re-assessment, there was evidence that the process could be greatly improved", particularly in relation to the power relationships that frame the lives of the families and professional decision-making. Since the implementation of the Children Act 1989, the interpretation of significant harm has been subject to much judicial scrutiny, and important case law judgements have resulted, including the case of *Re MA [2009] EWCA Civ 853*, where even the Court of Appeal judges adjudicating the case disagreed on what constituted significant harm.

In the UK, over the past decade, there have been increasing numbers of care proceedings alongside 'austerity' policies that increase hardship for many families in poverty and decrease family and community support services (CAFCASS, 2022; FRG, 2018). Serious concerns have been raised regarding the risk-averse, individually pathologizing nature of the child protection system of which the Family Court is part and the consequent lack of attention to social determinants of harm (Featherstone et al., 2018; Morris et al., 2018). Similarly, despite evidence of the social determinants of drug use (e.g. Stevens, 2011; Wilkinson & Marmot, 2003), there has been limited recognition of the role of social contexts in shaping policy related to parental drug use (Whittaker et al., 2020).

To further situate the study, it is relevant to note the contested position of cannabis in wider British society. Cannabis is illegal and classified as a Class B drug, the possession of which can lead to a prison sentence of five years. Nevertheless, cannabis use is relatively widespread. A government survey found that almost one-third of people in England and Wales aged 16–59 reported having used cannabis at least once (ONS, 2020). Another study reported that all age groups except the over-65 group supported the legalization of cannabis (Populus, 2018). There is considerable evidence of the disproportionate impact of the criminalization of cannabis possession on British Black communities, including more targeting of black people in stop-and-search by the police and harsher sentencing (Shiner et al., 2018).

2 | METHOD

To explore the construction of parental cannabis use in Family Court proceedings, we adopted the QDM method, i.e. the mining of the narrative text contained in documents (Henry et al., 2014). This method allowed us to use existing court judgements to examine the different perceptions regarding parents' cannabis use and, more specifically, analyse the meanings attributed to it during the assessment and judgement processes.

Based on the premise that both cannabis use and parenting are not merely descriptive terms, but also socially constructed behaviours grounded in political and moral considerations (Lavie-Ajayi, 2022), we took a critical constructivist approach (Kincheloe, 2005) that aspired to reveal how discourse and interpretation shape the construction of social realities (Bogdan & Biklen, 2007). Thus, we aimed to problematize and elucidate the social and political processes through which meanings are attributed to cannabis use and the consequences of particular meanings for children and families in child protection proceedings.

2.1 | Sample

A purposive sample of court decisions that involved parents' cannabis use was selected for the analysis. The decisions were extracted from the British and Irish Legal Information Institute (BAILII) online database, which provides free access to British and Irish primary legal materials, including judgements, decisions, legal texts and commentaries. For this study, we reviewed judgements from the Family Courts in England and Wales. These judgements are normally reported in writing by judges regarding cases where the judge indicates they are of sufficient interest to the public (for research and discussion on the judgements published on the BAILII database, see Doughty et al., 2017). Although it has been used as a data source in several studies (e.g. Barnett, 2020; Case, 2019; Thoburn, 2021), the BAILII database presented several limitations. First, the judgements uploaded to it represent only a very small proportion of the judgements and decisions made by Family Court judges. Second, since the inclusion of judgements and decisions in the database is at the discretion of judges, the nature and characteristics of the cases in it are somewhat eclectic. Third, the judgements provide only a partial picture of the cases. Judgements contain an overview of the case by the Judge, and explanation and reasons for their decisions, including the basis on which it is deemed the significant harm criteria is met (or not). Reference is made to professional reports and statements, but there is no direct access to these documents. Last, there is a lack of consistent information in each case, with no systematic references to race, socio-economic factors or intervention history, for example.

While the judgements analysed represent only a tiny proportion of the thousands of cases that come before the Family Court each year (there were 12,786 care applications in England between April 2020 and March 2021 [CAFCASS, 2022]), the critical-constructivist approach of our study does not aspire to adhere to principles of

representativity and generalization (Jansen, 2010). Therefore, we argue that the findings regarding the constructions of parental cannabis use in the court offer valuable insights into how they may be used and challenged by social workers in assessing and intervening with families involved in child protection processes within and outside the court system.

An initial search for the words 'cannabis' and 'marijuana' elicited 209 court decisions. For the analysis, this original sample was further refined to include only cases of neglect in which parents' cannabis use was addressed in the decision and in which cannabis was the only substance they used. Therefore, cases in which cannabis was mentioned fewer than two times in a decision ($n = 71$) (i.e. as a background variable in parents' lives before having children or in relation to other family members) and cases in which parents used other substances in addition to cannabis ($n = 47$) were excluded. In addition, cases were excluded if they involved suspicions of physical and sexual abuse ($n = 31$) or international marital problems ($n = 5$), revolved around parents selling or growing cannabis ($n = 13$), focused on cannabis use by the children in the case ($n = 8$), consisted of an application for declaration of parenting ($n = 1$), or related to suspicions of terrorism ($n = 1$). The final sample included 32 case decisions made from 2010, the year of the earliest judgement that included cannabis use by parents, to 2021, the year the data was collected (for a list of references to the sample, see appendices).

In the UK, court proceedings may address more than one child in a family. Therefore, the total number of children involved in the case decisions was 50. Of these, 36 were identified as boys and 14 were identified as girls, and their average age was 3.5 (range 0.2–10).¹ The parents' average age was 23.8 (range 17–39).² In 16 cases, both parents had parental responsibility, in 14 cases only the mother had parental responsibility or was involved in the proceedings, and in two cases only the father was involved in the proceedings. Twenty-eight of the case decisions were part of care and (adoption) placement order proceedings. Twenty-one of them ended with at least one of the children being placed for adoption without parental consent, five with the children placed in kinship care and two in long-term foster care. The remaining four decisions included one care order that ended with the children reuniting with their parents, one that involved an application for permission to appeal against adoption that was denied, and one that discussed a special guardianship order that resulted in the child being placed in kinship foster care, and one that discussed an appeal against adoption and rejected it.

2.2 | Analysis

We conducted a three-phase thematic analysis (Braun & Clarke, 2006). First, a holistic reading of all 32 case decisions enabled us to bracket the references to cannabis and contextualize them with regard to each case. All the paragraphs that addressed cannabis were extracted from each case and saved in a separate file alongside a short case description and preliminary reflections on the themes that arose from the texts. The second phase involved an in-depth reading of the

cannabis-related parts of the decisions. This phase produced a coding framework with three main themes: cannabis as risk, cannabis as proof and positive notions of cannabis use. In the third phase, all the data was analysed again in light of these themes. This phase led to the refinement of the three main themes and the development of the sub-themes in each of them.

3 | FINDINGS

The analysis of the court decisions revealed a dominant construction of parents' cannabis use as negative, deviant and harmful throughout the sample. Moreover, in the context of parenting, it was mainly framed as a neglectful activity that endangered children. Three constructions of cannabis use were identified. Two, *parental cannabis use as a risk to children* and *cannabis use as proof of parents' deficits*, were voiced by the majority of the judges and attributed to professionals, while one, *cannabis use as responsible self-medication*, was voiced by a small minority of judges and mainly attributed to parents (See Table 1).

While all the cases met the inclusion criteria and therefore involved at least two references to parents' cannabis use, the attention given to cannabis use varied significantly between the cases. In some cases, it was mentioned anecdotally as an aside, while in others it was the subject of substantial attention throughout the decision-making process. Nonetheless, it is important to acknowledge that cannabis use on its own did not serve as the driver of any decision or the sole threshold for intervention in any of the cases. Rather, professionals, judges and parents used it as one of several factors to develop their arguments. Importantly, our analysis did not aspire to determine whether parents' cannabis use was, in fact, harmful to the children in question, nor did we examine the overall evidence in the cases. Rather, we focused on the interpretations of parents' cannabis use even in cases that involved obviously neglectful parents.

3.1 | Cannabis use as a risk to children ($n = 21$)

Although parents' cannabis use was repeatedly referred to as posing a risk to children, only five decisions detailed the actual link between it and the children's risk. These included a case in which a mother fell asleep during a contact visit with her child ([2010] EWCC 33 [Fam]), one in which the mother testified that not having access to cannabis made her aggressive ([2015] EWFC B115), one in which the mother was repeatedly found smoking cannabis at home despite her son's respiratory condition ([2014] EWFC B213), one in which the mother used cannabis during her pregnancy ([2021] EWFC B7) and one in which the mother spent a disproportionate amount of money on cannabis while her children's basic needs were comprised ([2014] EWFC B85) (although similar claims were made in other cases, only this judgement indicated how the expenditure on cannabis affected the children).

TABLE 1 Frequency of themes across the sample

Themes	Cannabis use as a risk to children (n = 21)	Cannabis use as proof of parents' deficits (n = 20)	Cannabis use as (responsible) self-medication (n = 10)
Sub-themes			
	Risk of neglect and emotional harm (n = 13)	Proof of noncompliance or disguised compliance (n = 15)	
	Risk of inadequate living conditions (n = 6)	Proof of lack of insight (n = 10)	
	Risk of the loss of parents' ability to care for their children (n = 6)	Proof of irresponsibility (n = 9)	

For the most part, decisions did not describe how the parents' use affected their treatment of their children. Eight judgements mentioned cannabis use briefly as one of the significant harm threshold criteria without explaining why the parents' use put the children at risk. When professionals did attempt to detail why and how parents' cannabis use posed a risk to their children, they pointed to three main risks: neglect and emotional harm, inadequate living conditions and parents' loss of their ability to care for their children.

3.1.1 | Risk of neglect and emotional harm (n = 13)

The risks most prevalently attributed to parental cannabis use in the sample were neglect and emotional harm. Nevertheless, most decisions that pointed to these risks did not explain in detail why cannabis use was being linked to neglect and emotional harm. This excerpt exemplifies this tendency:

The mother tested positive for cannabis during the proceedings for two of her older children. X is likely to suffer significant neglect and emotional harm if his mother uses cannabis. ([2018] EWFC B82)

The cases that did expand such statements pointed to the fact that parents' use could make them less responsive to their children's needs, as the following excerpt does:

They cannot react to a young child who needs clues of what they want [e.g., to be] picked up by a parent, and the parent then being able to deal with the matter properly. ([2014] EWCC B66 [Fam])

3.1.2 | Risk of inadequate living conditions (n = 6)

Cannabis use was linked to the risk of children living in an inappropriate environment. Specifically, two negative consequences of using cannabis were described. The first was the financial aspect of cannabis consumption. Several decisions detailed the costs of cannabis in relation to the parents' income, claiming that cannabis use would result in children's material needs not being met. The following excerpt illustrates this view:

In view of the father's admission that cannabis was being purchased daily, it is highly likely this would have affected the family budget with the associated adverse impact that would have had on the care of the children. ([2015] EWFC B115)

Another possible consequence of cannabis use on the environment in which children grow up is parents' involvement in criminal activities. Because cannabis use was linked automatically to crime and criminals, professionals claimed that the presence of criminals in children's homes constituted a risk to their well-being, as the following excerpt shows:

I have no information about how the mother acquires her cannabis, the quantity used and the financial impact upon her outgoings. Inevitably it risks further involvement with the Criminal Justice System [sic]. ([2015] EWFC B90)

Another judge was even harsher and claimed that:

It is axiomatic to say that possession of cannabis is illegal and that acquiring it to smoke is not only expensive but necessarily involves those who do in participating in the drug culture and exposure to criminal activity and gangs. ([2018] EWFC B4)

3.1.3 | Risk of the loss of parents' ability to care for their children (n = 8)

Lastly, the judgements reflected concerns that parents' cannabis use would jeopardize their ability to function. Specifically, they pointed to the link between mental illness and cannabis and highlighted cannabis use as a pathological coping mechanism that could negatively affect parents' mental health in ways that would be detrimental to their ability to parent, as this excerpt shows:

the local authority believe that Mother uses cannabis as a coping strategy, and this will decrease her availability to care for a child. I agree with this and moreover [believe] that cannabis use brings not only risks to

Mother's mental health but also impacts on her ability to parent the children as it is used as a coping mechanism ([2021] EWFC B34).

In some cases, professionals implied that because cannabis was used as a coping mechanism, parents were dependent on it and therefore, even if they were not currently using it, they would return to it when under stress:

To counter the stress would come the cannabis and with cannabis would come serious deficiencies and even positive dangers in her care of the child. ([2014] EWFC B118)

3.2 | Cannabis use as proof of parents' deficits (n = 20)

Whereas the construction of parental cannabis use as a risk to children points to the future dangers it poses to children, it may also be constructed as proof of parents' past inability to care for their children. Specifically, parents' consumption of cannabis was used in the texts we analysed to prove three main claims against parents: non-compliance, compliance or disguised compliance; lack of insight; and irresponsibility.

3.2.1 | Proof of noncompliance, compliance or disguised compliance (n = 15)

Much of the discussion regarding parents' cannabis use revolved around their honesty, trustworthiness and level of cooperation. Generally, judges tended to be highly suspicious of parents' accounts regarding their use or non-use. The use of hair strand drug tests, mentioned in 10 of the cases, is interesting in this context. These tests were framed by professionals as an objective and scientific assessment tool that could help to expose parents' negative behaviour and were therefore often used as a kind of lie detector. Indeed, when drug tests contradicted parents' testimonies, the rest of their claims were questioned. Thus, parents were accused not only of dishonesty but also, and perhaps more importantly, of not being able to work with professionals, as the following example shows:

Father initially lied but then admitted using cannabis during the assessment period which raised concerns about the couple's ability to work honestly and openly with professionals. ([2010] EWMC 37 [FPC])

Nevertheless, six judgements that accepted that parents had, in fact, stopped using cannabis led to two kinds of responses: the first (n = 3) praised the parents and reinforced the negative construction of their cannabis use, i.e. cannabis is harmful and good parenting requires abstinence. The second kind of response to parents'

abstinence, however, was used to cast doubt on their trustworthiness even when the court accepted that they had indeed stopped using cannabis. In these cases (n = 3), parents were accused of what is known as disguised compliance (Leigh et al., 2020), i.e. ceasing to use cannabis for tactical reasons rather than because of a genuine understanding of the damages created by the use, as we can observe in the following example:

She now claims to be free since January. As I have said, I proceed on the basis that she probably is, but she is drug free for the wrong reason. The reasons are entirely tactical. It is quite clear that she actually sees no harm in taking the drug at all. Mrs. S is quite right to say that she would go back to the drug once these proceedings were over. ([2010] EWCC 33 [Fam])

3.2.2 | Proof of lack of insight (n = 10)

Cannabis use was also cited as proof of parents' lack of insight into their children's needs. Thus, parents who disagreed with professionals regarding the problematic nature of their cannabis use and how it affected their children were labelled as lacking insight:

I believe this [cannabis use] illustrates their lack of understanding of the Local Authority issues about their ability to be emotionally available to the children and prioritise the children's needs above their own. ([2016] 1 FLR 1, [2015] EWFC 11, [2015] Fam Law 367)

The construction of parents' lack of insight was used as an indication of their future cannabis use. The basic argument in this context looks like this:

I am persuaded that the mother continues to lack insight into how her behaviour impacts on the children ... This is demonstrated by her lack of insight regarding [the impact of] her cannabis use on her parenting, which makes it highly likely she would use it again in the future. ([2015] EWFC B115)

3.2.3 | Proof of irresponsibility (n = 9)

Cannabis use was consistently constructed as an irresponsible action on the part of parents. Here again, two main arguments were used to blame parents for being irresponsible. The first was that the mere fact that parents use cannabis, especially but not only throughout the court proceedings, constituted proof that they were irresponsible and therefore incapable of caring for their children. The irresponsibility was supposedly demonstrated by the fact that parents were aware of the consequences of using cannabis in the context of child protection

yet continued to use it. In these cases, cannabis was also attributed to problematic personal traits such as impulsivity:

father presents an ongoing risk of behaving impulsively in the future and he continues to exercise poor judgement (e.g., his ongoing use of cannabis during the parenting and risk assessment) and has not fully acknowledged the concerns of professionals. ([2010] EWMC 37 [FPC])

This construction is different than proof of a lack of insight in the sense that parents are considered aware of the dangers of cannabis use but not responsible enough to stop using it, as this example shows:

She admitted using cannabis on occasions when C was asleep in bed. C is not a good sleeper and regularly wakes up and gets out of bed during the night. Thus, the mother could not have known when C would have woken up and would require her mother's care and attention when she was under the influence of cannabis. This is yet a further example of the mother's inability to prioritise the needs of C. ([2020] EWFC 66)

The second explanation offered as proof of parents' irresponsibility concerned their choice to spend money on cannabis. They were blamed for acting irresponsibly by purchasing cannabis while struggling financially. All references to parents' financial priorities were made regarding parents living in poverty. Here is an example of such a perspective:

The Mother has demonstrated an ability to meet E.'s basic needs but she has no coping mechanisms. She is defensive and becomes angry if challenged. Her cannabis use has now increased to £10 per day which she can ill afford ([2016] EWFC 59).

3.3 | Cannabis use as (responsible) self-medication (n = 10)

The last construction of cannabis is based on the perspectives expressed by the parents, their advocates and a minority of professionals and judges. Although parents and professionals/judges agreed that using cannabis helps to alleviate stress and anxiety, the construction of this assumption was very different for parents than for professionals/judges. As indicated in the first theme, judges' and professionals' accounts, as reflected in the judgements, portrayed cannabis use for relaxation as a pathological coping mechanism that risks impairing parents' ability to care for their children. Parents, conversely, repeatedly referred to cannabis use as a harmless activity that helps them cope with stress, i.e. a form of self-medication, as this excerpt shows:

She denied throughout her evidence that smoking 'weed'—that is cannabis— was bad. Indeed, she said it was good as it helped her to relax. Did not interfere with caring for the child in any way. ([2010] EWCC 33 [Fam])

Whereas professionals and judges used cannabis as proof of parents' irresponsibility, in several cases, the parents and their advocates insisted that the opposite was true, claiming that the use of cannabis proved how responsible the parents were. They did so by describing both the reasons for use (e.g. stress) and the actions parents took to ensure that their use would not harm their children. The main argument in this context was that the consumption took place at night after the children fell asleep, and therefore did not endanger them:

Mother however disputes this and whilst she accepts smoking one 'spliff' of cannabis she says that, as Father B or other adults were present and the children in bed, the children were not at risk of significant harm. ([2021] EWFC B28)

While the more positive constructions of cannabis were mainly offered by parents and their advocates, we identified three judgements in which the dominant negative constructions of cannabis use were challenged. In these cases, judges asserted – or echoed professionals' assertions – that cannabis use on its own did not imply anything about parents' ability to care for their children, as the following excerpt from a judgement by Sir James Munby, President of the Family Division at the time shows:

He may have taken cannabis on occasions, but the reality is that many parents smoke cannabis on occasions without their children coming to any harm. The police search was of a property which at the time was tenanted and there is nothing to suggest that the father was in any way complicit. These allegations take the local authority nowhere. Parental abuse of alcohol or drugs of itself and without more is no basis for taking children into care. ([2016] 1 FLR 1, [2015] EWFC 11, [2015] Fam Law 367)

4 | DISCUSSION

This paper aimed to explore the possible constructions of parents' cannabis use in Family Court child protection proceedings and position them within a political and social context. As indicated above, we do not claim that this study includes a representative sample. The cases selected for analysis reflect only a narrow selection of cases where care proceedings are brought and cannabis use is part of the evidence. Also, our sample included only decisions that explicitly mentioned cannabis at least twice, and it is reasonable to assume that additional child protection cases involved parents' cannabis use yet

did not address it. In addition, our analysis does not incorporate the extent or nature of parents' cannabis use and focuses on the underlying logic of the assessment made by the court rather than on the weight given to the use.

What the study does is shed light on the interpretive mechanisms through which cannabis use – an increasingly normalized activity in the UK context – can be constructed as pathological and threatening in the case of parents involved in child protection proceedings. By problematizing this construction, our study points to two intertwined social and political processes that underpin the construction not only of cannabis use, but of parents and parenting in child protection proceedings: first, the adoption of a risk lens, and second, the manifestation of othering processes.

4.1 | The adoption of a risk lens

As a multitude of scholars have pointed out, the perception of child protection 'risk' or 'harm' is not neutral or standardized. Rather, the perception of risks is subject to social construction processes in which powerful groups play significant roles in defining what they entail (Keddell & Stanley, 2019). Moreover, the dominance of the politics of neoliberalism has resulted in a focal concern with the personal responsibility and moral behaviour of individuals and created "a context where need is understood through a risk lens, and responsibility continues to be conflated with conscious intentionality" (Featherstone et al., 2018, p. 12). This risk-focused paradigm easily discredits more open-ended and dialogical ways of interpreting the ambiguous definition of risk that could help professionals and parents talk about mutual concerns and the circumstances in which parenting takes place (Houston & Griffiths, 2000) and enable professionals to critically and continuously (re)consider their framing of risky situations (Saar-Heiman & Krumer-Nevo, 2020).

The findings nonetheless enable us to see how viewing cannabis use through a risk lens distorts and dominates the way in which parents and their actions are perceived. Whereas parents' use of cannabis can be framed in different contexts as irrelevant to parenting, the risk lens creates an immediate link between cannabis use and risk to children, portraying parents as irresponsible and ignoring the context and circumstances in which they act. Moreover, by focusing on risk, professionals overlooked the fact that the use of cannabis can be, as many parents claim, the result of a true need to decrease anxiety and cope with stress. As our findings show, even the concept of a 'coping mechanism', which can be used to describe parents' strengths, was used in the judgements to undermine parents and portray them as incapable.

The risk lens not only affects the assessment process but is also central to the actual practices used by professionals and the decisions made by judges. Thus, if cannabis use is perceived as an extremely risky activity, the aim of the intervention easily becomes making parents stop using it. Inevitably, the decontextualized understanding of cannabis use – e.g. as evidence of a lack of responsibility – fuels a very narrow and regulatory set of practice options that aim to reduce

cannabis use and consist mainly of referring parents to mandatory treatment or conducting drug tests.

The prevalent use of drug tests – 10 of the cases in our sample – is, in itself, an expression of the risk-focused orientation because it is based on the aspiration to achieve the rationalization, standardization and scientification of child protection (Saar-Heiman & Gupta, 2020). Moreover, it reflects the desire to create certainty in what is actually a process of attempting to understand the inevitably complex, messy and uncertain lived experiences of children and families. Basing decisions and assessments on these tests is believed to provide an element of objectivity. Yet the use of drug tests as a basis for child protection decision-making has been substantially criticized at the scientific level. Hair analysis (which is increasingly used in the UK) for cannabinoids has repeatedly been found unreliable (Kintz, 2017; Moosmann et al., 2015). Moreover, at the professional level, drug tests, even when accurate, cannot point to anything but recent exposure to cannabis (Lloyd & Brook, 2019).

4.2 | Othering

The second process we identified as underpinning the construction of cannabis use in our findings is othering, described by Lister (2004, p. 101) as a "process of differentiation and demarcation, by which the line is drawn between 'us' and 'them' – between the more and the less powerful – and through which social distance is established and maintained". The othering of families is rife in risk-averse child protection systems (Gupta et al., 2018). Thus, parents are easily blamed and held responsible for their children's situations (Gibson, 2020; Saar-Heiman, 2022). Fuelled by wider conservative public (Garrett, 2018), political (Warner, 2015) and professional (Morris et al., 2018) discourses, current child protection responses often involve intensive moral regulation and social control of 'them' alongside reinforcement of 'our' middle-class notions of respectability. This value orientation stands in sharp contrast to social work that takes a critical stance and remains loyal to the public mandate of the profession in promoting and proactively supporting the realisation of rights (Kessl, 2009; Lorenz, 2016).

We identified two specific manifestations of othering in the data. First, throughout the data, parents' cannabis use is presented as an immoral activity that points to a problematic value base. Echoing the findings of Morris et al. (2018, p. 368) regarding social workers' "tendency to focus on those stigmatizing cultural signifiers associated with underclass narratives", judges and professionals link parents' cannabis use to deviant norms, deficient priorities and lack of motivation to change. For example, instead of considering the effects of cannabis use on the child in the specific context of the case, cannabis use led to the attribution of negative traits such as impulsivity and delinquency to parents. Nevertheless, as the final quote in the previous section reminds us, many parents in the UK use cannabis without their children coming to harm.

Similarly, the cases in which parents were scrutinized for wasting money on cannabis did not revolve around the influence of their

cannabis use, but rather around their choice to spend money on cannabis. Although only one judge detailed how the money spent on cannabis influenced the children in the case, spending money on cannabis was framed as inappropriate and irresponsible behaviour. These negative behaviours are not attributed to parents of middle and high socio-economic status who use cannabis. Middle-class parents are also far less likely to lose their children to the state due, in part, to less exposure and surveillance outside the child protection system and the bias of professionals in relation to class once in the system (Bywaters et al., 2020; Keddel & Hyslop, 2019).

Second, othering processes frame parents involved with social services as irrational and irresponsible (Warner, 2015). Indeed, judges and professionals in this sample of cases, point to parents' cannabis use as an irresponsible and irrational activity in general, and, to a greater extent, in the context of their situation. However, as the findings indicate, the parents' accounts of the positive effects of cannabis use, alongside the actions they took to prevent it from harming their children, provide a 'situated rationality' (Kemshall, 2010) that helps explain and contextualize their use.

Another example of the undermining of parents' rationality concerns their choice to conceal their use from their social workers and the court. While judges and professionals may interpret this choice as proof of parents' lack of insight or irresponsibility, they fail to acknowledge the negative ramifications that admitting to cannabis use may have for parents, i.e. being assessed as exposing their children to risk and lacking the ability to care for them. When we consider that parents are required to choose between these two problematic options, it becomes apparent that the binary between the right and wrong choice is mainly the product of successful othering that differentiates between the rational 'us' and the irrational 'them'.

5 | CONCLUSIONS AND IMPLICATIONS FOR PRACTICE

The ambiguous status of cannabis and the differential normalization of its use in society provide a unique context for the investigation of the social and political nature of the construction of risk in child protection policy and practice. By highlighting the different constructions of parental cannabis use, this study reveals the mechanisms through which parenting is assessed and captures the manifestation of social injustice at the micro-level of court proceedings. Moreover, our findings point to the pivotal role social workers play in such situations when the stakes for children and their parents are so high. On the one hand, they can reinforce societal harms and their ramifications in families' lives. On the other hand, the fact that some social workers stood by the parents and did resist and question the dominant constructions of cannabis use demonstrates the subversive potential of social work and its possible role in combating injustice.

Based on the findings, we note several implications for social work practice not only in the family courts but in the child protection system in general. First, there is a need to develop training and practice guidelines that are based on a realistic consideration of the

benefits and the detrimental effects of parental cannabis use. Second, social workers should be aware of the political dimensions and differential construction of cannabis in society in general and in child protection in particular. Third, for practitioners to be able to resist othering, the development of critical reflection is key. Specifically, organizations should create safe spaces for reflection that will enable practitioners reflect on their assumptions and biases concerning cannabis. Fourth, practitioners should strive to develop close relationships with families that will enable them to understand parents' rationales regarding their cannabis use and their explanations of it. Finally, social workers should shift away from practice based on moral regulation and towards practice that promotes social justice and engages with the lived realities of children and their parents.

CONFLICTS OF INTEREST

There is no conflict of interest related to the writing of this manuscript.

DATA AVAILABILITY STATEMENT

The data that supports the findings of this study are available in the supplementary material of this article

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ENDNOTES

¹ Two decisions did not mention the children's ages.

² Fifteen decisions did not mention the parents' ages.

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APPENDIX A

Judgments included in the sample

1. A (A child), Re [2010] EWCC 33 (Fam)
2. HB (Care & Placement Orders), Re [2018] EWFC B4
3. E (A Child: care proceedings: placement order) [2016] EWFC 59
4. X (A Child), Re [2018] EWFC B82
5. Haringey v M [2014] EWCC B66 (Fam)
6. P (A Child: Assessment of Kinship Carers) [2014] EWFC B73
7. D (A Child), Re [2020] EWFC B11
8. Leeds City Council v X & Anor [2014] EWFC B135
9. X, Y & Z (Care & Placement Order), Re [2015] EWFC B115
10. E (A Child: Welfare hearing) [2014] EWFC B118
11. Cornwall Council v M & Anor [2014] EWFC B184
12. Peterborough City Council v A Child [2016] EWFC B68
13. MJC (refusal of permission to oppose adoption) [2015] EWFC B75
14. K (A Child), Re [2010] EWMC 37 (FPC)
15. D and E Children, Re [2014] EWFC B85
16. B (A Child), Re [2015] EWFC B93
17. X (care and placement order) [2014] EWFC B86
18. Cambridgeshire County Council v D [2016] EWFC B48
19. Cambridgeshire County Council v X and Y [2016] EWFC B37
20. M (A Child), Re [2010] EWMC 41 (FPC)
21. S, Re (Care and Placement Orders) [2021] EWFC B7
22. M, R & MF (Children), Re [2015] EWFC B90
23. AB (Adoption or Rehabilitation) [2017] EWFC B44
24. E (A Child), Re [2010] EWMC 80 (FPC)
25. AB, Re (Children) (Care & Placement Orders) [2021] EWFC B34
26. A & B (Children: Care & Placement Orders) [2014] EWFC B213
27. C, L and M (Care Order at Home) [2015] EWFC B78
28. A (A Child), Re (Rev 1) [2016] 1 FLR 1, [2015] EWFC 11, [2015] Fam Law 367
29. C (A Child: Adoption) [2020] EWFC 66
30. A & B (Children), Re [2021] EWFC B28
31. KCC v T (Leave to Oppose Adoption Application) [2015] EWFC B108
32. S (Care plans in discharge applications), Re [2018] EWFC B88