

# Scottish Journal of Residential Child Care



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# Editorial

## Graham Connelly

Welcome to the first issue of *SJRCC* of the new decade. We publish in the month that has also seen the publication of the reports of the [Independent Care Review](#) in Scotland. The review was established in February 2017, following a meeting in October 2016, at which Scotland's First Minister, Nicola Sturgeon, listened to children and young people in care and care experienced adults and made a commitment at the SNP conference. Ms Sturgeon told her party delegates that she intended to commission an independent, 'root and branch review' of Scotland's children in care system.

The Review, based on the evidence of more than 5,500 care experienced children, adults, family members and members of the paid and unpaid workforce, has resulted in seven publications: *The Promise* (and a *Pinky Promise* for younger readers); *The Plan*; *The Money and Follow the Money*; *The Rules*; and *Thank You*.

In 'The Promise' the need for urgent improvement in Scotland's 'care system' is set out starkly in the foreword by the Review's chair, Fiona Duncan.

Despite the system being focused, above all else, on protecting against harm, it can prolong the pain from which it is trying to protect some children who have experienced trauma told the Care Review that being taken into care and growing up in the 'care system' was among the most traumatising experiences they had ever had, exacerbated by being separated from their brothers and sisters, living with strangers and moving multiple times (p. 7).

It is desperately sad to read this indictment from the perspective of a Journal whose principal aim is to provide a forum for discussion of the conditions for loving, nurturing care of *our* children. We know that good practice by caring and committed individuals exists – and is demonstrated through various accounts in the Journal – however, the Review shows that too many children and young people are not always getting the care and respect they deserve.

Fiona Duncan says that improving the care experience should not be about passing laws which require that children in care are loved, but ‘... will involve fundamentally shifting the primary purpose of the whole of Scotland’s “care system” from protecting against harm to protecting all safe, loving respectful relationships’ (p. 8). Wherever you are based, you are sure to find in these reports a call to action for ensuring that children growing up in care are listened to and can feel secure that when the State intervenes in their lives their everyday circumstances always improve.

The central theme of this issue of *SJRCC* is ‘looking forward’, or thinking creatively about the conditions for improving care experiences. We publish five articles from authors who responded to our call for reflections on this theme. In the first of these, Scotland’s former Commissioner for Children and Young People, Kathleen Marshall, sets out a vision of what residential childcare might look like in the future and concludes that legislating for love is both possible and desirable in setting aspirations. In making this argument, Professor Marshall takes a different view to that expressed by Scotland’s Care Review which has concluded that a legislative framework for love would be an institutional response which might not lead to the significant cultural changes needed to ensure children experience being loved. From the perspective of her research on child abuse, CELCIS researcher, Moyra Hawthorn, considers ‘instances and accounts of exemplary practice of residential care practitioners who were committed to ensuring that children and young people are nurtured, loved, and well prepared for adulthood’. Canadian psychotherapists, Shannon Moore and Kimberley Duffin, invite the readers ‘to imagine residential child and youth care as having a central connection to experiential nature-based therapies across rural and urban settings’. They propose that ‘Land Praxis’ should ‘provide a tool to support an increased sense of agency for young people facing uncertain futures’.

Then, Danny Henderson, a residential practitioner with Scottish third sector residential care provider, Care Visions, reflects on the contributions of the Sanctuary Model, ‘an approach that foregrounds trusting reciprocal relationships as a medium for healing and growth that facilitates nuance and differentiation while ensuring safety’. And finally, Max Smart and Andy Thorpe, long-term

managers of Lothian Villa, a residential centre in East Lothian, Scotland, describe the 'journey of supportive care and healing that goes beyond another kind of home and leads to a different kind of residence'. They outline their aim to create a supportive family that transcends the immediate care experience so that even after young people have left 'The Villa' they feel they will have continuing support.

The issue is book-ended by a peer-reviewed research article in which trainee clinical psychologist, Katie McIntyre, reports on her research on a Dialectical Behavioural Therapy skills group implemented in a Scottish residential service, and two reviews: one of a book for children – 'Not Again Little Owl' – and one of research reports on leaving care in India.

Also published in this issue, is the transcript of the Kilbrandon Lecture 2020 given by international human rights lawyer and author of the United Nations [global study on children deprived of liberty](#), Manfred Nowak. The research found that a staggering seven million children are currently deprived of liberty in various situations. Professor Nowak offers five recommendations, including applying diversion at all stages of the criminal justice process to transfer children from justice contexts to child welfare.

A lot to read, full of new insights and challenge! We will be back in June 2020, with a special issue coinciding with the Scottish Institute of Residential Child Care conference.

# Evaluation of a DBT group within Adolescent Residential Care

Katie McIntyre

## Abstract

Dialectical behavioural therapy (DBT) is an evidence-based cognitive behavioural intervention which has been shown to aid difficulties such as interpersonal relationships, emotion regulation and distress tolerance in women with personality disorder or displaying self-harm and suicidal behaviours. There is growing evidence that DBT can be utilised with adolescent populations also exhibiting such behaviours. The following evaluation looks at a DBT skills group implemented with young females in a Scottish residential service. Semi-structured interviews with young people and focus groups with staff were completed and transcribed. Thematic analysis was used to draw out key themes and these are discussed in relation to implementation for future practice.

## Keywords

Dialectical Behaviour Therapy, evaluation, adolescent, residential child care

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## Introduction

### Dialectical Behaviour Therapy

Dialectical Behaviour Therapy (DBT) is an intervention developed for individuals with difficulties regulating emotions, particularly those who experience suicide and self-injurious behaviour (Brodsky & Stanley, 2013). DBT is the leading evidence-based intervention for women diagnosed with borderline personality disorder (BPD; Groves, Backer, van den Bosch & Miller, 2012). It is a cognitive-behavioural intervention which aims to target characteristics of BPD including difficulties with interpersonal relationships, emotion regulation and distress tolerance (Dimeff & Linehan, 2001). DBT implements behavioural strategies and integrates eastern mindfulness practices, within the overarching premise of a dialectical world view which emphasises synthesising opposites of acceptance and change (Dimeff & Linehan, 2001). The delivery of DBT includes individual psychotherapy, group skills training, telephone consultation and a therapist consultation team (Linehan, 1993). DBT is broken down into three stages: Stage 1 focuses on stabilisation including reducing life threatening behaviours, therapy interfering behaviours and quality of life interfering behaviours and deficits in behavioural skills; Stage 2 involves working directly with trauma symptomology; Stage 3 focuses on improving one's experience of themselves e.g. increased self-respect, personal validation and goal setting (Linehan, 1993). DBT has been found to be effective for various conditions including depression (Bradley & Fallingstad, 2003), suicidal ideation (Bohus, Haaf, Striglmayr, Bohme & Linehan, 2000), self-harm (Hawton, Townsend, Arensmann, Gunnell, Hazell & House, 2000) and eating disorders (Telch, Agas & Linehan, 2001).

### DBT with adolescents

There is increasing research and evidence into the use of DBT with the adolescent population (Little, Butler & Fowler, 2010; Groves *et al.*, 2012). DBT was initially adapted for adolescents experiencing suicidal behaviour by Miller and colleagues (Miller, Rathus, Leigh, Landsman & Linehan, 1997 in Groves *et al.*, 2012). Changes made to the original intervention included reducing the length of time in treatment, age-appropriate language, and including family members in skills groups (Grove *et al.*, 2012). Additionally, a further module

was developed called 'walking the middle path' which is aimed at providing more support around learning validation skills, behavioural principles and dialectical thinking (Grove *et al*, 2012). Rathus and Miller (2002) demonstrated the utility of DBT with outpatient adolescents in a clinical trial implementing pre- and post-measures. Results showed reductions in suicidal ideation, general psychiatric symptomology and BPD symptoms (Rathus & Miller, 2002). Adolescents within inpatient settings have also been shown to benefit from DBT demonstrated by a reduction in behavioural incidents (Katz, Cox, Gunasekara & Miller, 2004). McDonnell and colleagues (2010) also found a significant increase in overall functioning, a decrease in prescribed medication and a reduction in non-suicidal self-injurious behaviour when implementing DBT in an inpatient setting.

### **DBT with adolescents in residential settings**

Research implementing DBT in residential settings appears to be sparse. Although as noted above there has been research implementing the intervention within inpatient settings, residential settings are viewed separately within the research (James, Alemi & Zepeda, 2013). Moreover, research within the UK is particularly sparse, with more research emerging from the USA. Apsche, Bass and Houston (2006) compared Mode Deactivation Theory to DBT noting that there appeared to be more reduction in symptoms with the former intervention. Wasser, Tyler, McIlhaney, Taplin and Henderson (2008) found a reduction in depressive symptoms for those attending DBT. Although both studies used control groups, methodological issues exist for both including, small sample sizes and difficulties relating to generalisability.

Sunseri (2004) conducted research in a residential treatment centre for adolescent females in California. Results noted reduced hospitalisation, fewer incidents of self-harm and suicidal behaviour and fewer physical restraints. Additionally, adolescents increasingly approached care staff to report their distress or request assistance with skills. Beckstead, Lambert, DuBose and Linehan (2015) found a reduction in the severity of internalising and externalising symptoms with a group of Native American adolescents diagnosed with substance disorder. Recently, McCredie, Quinn and Covington (2017) evaluated a year-long DBT treatment in an adolescent residential setting in Maryland. Factors identified included reduced number of diagnoses from

admission to discharge and reduction in symptom severity. The views of the young people in terms of the utility of the skills was also obtained with participants advising that they were significantly more likely to use skills contained within the Distress Tolerance module than other skills. However, they also were more likely to advise that all skills would work if used, rather than stating there were any particular skills which they did not find effective.

### **DBT in a Scottish residential service**

The following report evaluates a DBT group delivered in an adolescent residential service in Scotland, UK. The service offers intensive DBT (group plus individual therapy), group DBT skills, individual DBT skills and individual intensive DBT, dependent on a young person's needs. The group involved in the below evaluation consisted of seven young girls from one of the houses within the residential campus. Within the group, two of the girls engaged in intensive DBT, four of the girls engaged in group skills plus individual work which was not of a DBT approach and one girl engaged in solely group skills and left halfway through.

The group ran every Wednesday evening within a therapeutic room in the intervention services building. Consideration was given to factors influencing responsiveness including the environment and layout of the room for example utilising beanbags rather than chairs for comfort. A total of 43 one-hour sessions were completed, across 55 weeks. All modules of DBT were delivered including Mindfulness, Distress Tolerance, Emotion Regulation, Interpersonal Effectiveness and Walking the Middle Path. The format of the group was such that every module was preceded by two mindfulness sessions and followed by an event chosen by the group participants to celebrate completion of a module, with a graduation ceremony at the end of the group. Two fully trained DBT staff members facilitated the group. Children and youth care workers from the residential house also participated in the skills groups. This participation was to allow staff working within the house to increase DBT knowledge and to support the young girls in utilising skills learned from the sessions in the life space.

## Findings and discussion

Interviews were conducted with young people who participated in the DBT group early into the intervention (following completion of the first three core modules) and repeated following completion of the intervention. Focus groups were conducted with those staff that participated following completion of the group. Interviews and focus groups were transcribed and thematic analysis was used to analyse the data. A total of seven themes were drawn from young person interviews, and six similar themes from the staff focus groups. These are discussed below, providing example quotes demonstrating each theme.

### Theme 1: Understanding DBT

#### Young person views

Overall, across both the initial and the post-intervention interview, young people appeared to demonstrate a good understanding of DBT. Although often participants were unable to expand the acronym 'DBT', all group members were able to describe the purpose of the intervention:

I don't remember the first...I don't [...] (lots of background noise)...I can't say the 'D'... I know it's behaviour therapy ...some...behaviour therapy... (I: yeah, okay)...I just can't remember what the 'D' stands for

It helps you like...not just emotions...it helps you understand other people's emotions ...not just your own. It helps you understand the way other people are feeling.

Group members demonstrated knowledge of the various modules involved in DBT, however primarily discussed the use of mindfulness and emotion regulation, with the majority of the participants talking about these modules:

We talked about the three minds for quite a while...Logic Mind, Wise Mind and Emotion Mind.

It tells you like about ... like emotions... stuff like that.

## Staff views

Similar to the young people, staff were more able to reflect on the purpose of DBT rather than expand the acronym. They also appeared to focus on emotions and mindfulness:

Dialectal behavioural therapy [ ] there's a lot of kind of focus on mindfulness... and how you... and how you kind of take things in before you respond to situations and certain emotions and stuff (I: Yip) ... there's sort of emotion regulation in it.

I think the aim for the young people was basically to... to give them... the tools to deal with their emotions better.

It appears that overall the young people and staff developed a good understanding of the role of DBT. Of note, all those who participated reflected primarily on emotions and mindfulness. This may be due to the large involvement of these two concepts within DBT. Notably, there did not appear to be discussion around relationships or the key concept of managing dialectics and finding the middle path.

## **Theme 2 (young persons): Exercises within DBT**

Across initial and second interviews, young people reflected on a number of exercises they engaged in within the group. There appeared to be a mixed view on those activities that were enjoyed among group members:

The worst bit is when you're sitting and they ask you to sit still, silently, not fidgeting, not doing anything while you're listening ...see like.. when you get those CDS of people talking... it just makes me more agitated...it makes me more angry..... it just makes wanna smash the radio player'.

we did one where we had to balance the ball on the sheet and it was all about like control ... [What was it about the activities that you really liked? Do you know?] Just working together and stuff

The best bits are like being mindful and then activities I guess... once we have like 5 places to go round...like lego... computer... that was quite good.

There were some aspects of exercises which young people did not enjoy and notably, young people most enjoyed the more active exercises:

I didn't really like the mindfulness... it was a bit weird, but I quite liked the three minds.... Coz I kinda got that...I was kinda really good at that one.

It's ok but I prefer when we're like doing something, like when they asked us to like.... Draw or paint or something rather than just sitting talking about it.

Overall there is the impression that group members enjoyed a variety of exercises and modes of learning within the DBT group. Being active within the group appeared to be the most enjoyed aspect of the group, whilst sitting still and listening was the least favourite. The group appeared to reflect well on the learning points from the exercises also, rather than viewing them only as fun activities to break up the time.

## **Theme 2 (staff): Preparation/feeling prepared**

Staff often reflected on how well prepared they felt prior to the DBT group commencing with some staff feeling more informed than others:

I didn't have any knowledge of it, however it was very quickly evident what it was all about (I: okay) yip, and from the first... after the first couple of weeks I knew exactly what it was about (I: okay) and I could then support the young people.

we had a little, because (name of staff member), (name of staff member) and... (name of staff member)... they came to our development day (I: okay) and they kind of did a wee overview.

Staff felt that prior training would have been beneficial to increase their understanding and participation before being involved:

if staff were going to be involved with the young people to support them, I think it would be a good idea for them to be spoken to prior (I: yip) to the sessions starting, and giving them maybe just an overall view of what's going to happen and what it's was going to be about.

Although all staff did not feel they were given training or preparation prior to the commencement of the group, all noted that they were able to understand DBT within the group sessions and embrace the purpose of the intervention.

### **Theme 3: What would you change about DBT? / What went well?**

#### Young person views

Group members discussed various aspects they enjoyed about the skills group. As discussed in theme two, there were reflections on the types of activities they enjoyed and those they did not. They also discussed the use of prizes, with it being noted that these may not have always had the desired effect (e.g. motivation and encouragement):

The whole prizes thing.... It's supposed to be like... you need to earn a prize... but they're really bad for that... they just give whoever a prize.

The Prizes! They're rubbish.

Some young people commented on the practicalities of the group, including the size, the environment, the length of one session and the length of the intervention as a whole:

Maybe the dragging on...like the talking....it feels like you're walking through woods ...they keep like talking... and like...cold dark woods. And getting pure bored. I don't like the size of the group.... If it was a smaller group I'd probably like it more

maybe more like [ ] like we are stuck...every time we go like we are in a wee building.. I think we should be like ...do like

outside...like active things...maybe like (I: okay) across the campus.

All young people spoke positively of the facilitators, with no group member suggesting any changes with this:

like once you first walk in the door they've always got a smile on their face which cheers the place up if it's in a bad atmosphere.

you have a lot of fun when you are with them [...] they just make it a pure laugh like we all thought it was gonna be pure boring [ ] they were just gonna say like, oh do this and do that...and help you with that...but it's not like [that] they make it really fun.

There appeared to be mixed views from the young people about it being in a group, mixed gender and mixed units:

It's better in a group...coz if you were doing it yourself you'd feel quite lonely... But when you've got your peers with you, it's just kinda better... it's like relaxing.

It would be so much better if it was just like...like [name of unit] is all girls at the minute... so you can imagine how hard it is living with 6 girls right.. well 5 including me... but you see if it's like boys and girls ...and from different units... how many units are there...like so if you had 10 groups a week right ... or like a group every day.... Maybe you cant do that...or maybe 2 groups a day ... With maybe 8 people in it... with staff but all different people from different units... that would be so much easier

Yeah, like also like you get other people's opinion working in a group so it's better that way.

Overall, the young people reflected positive views of the group. Often within the interview young people reported 'I wouldn't change anything' (or similar). Young people notably felt the relationships they had with the facilitators helped them feel comfortable within the group setting as well as enjoy the group content.

Young people also reflected on feeling that they wanted to attend the skills group, as they found it to be fun rather than a chore, and that they did not feel pressured to attend.

### Staff views

Staff felt areas of improvement included the size of the group, the length of a session and the length of the group as a whole:

I think a smaller group (I: right okay) would be better (I: okay), I think sometimes the group was too big (I: okay) and it was hard for the young people to stay focused (I: okay) erm... because the group was very big.

It has been going on for a while, I think its maybe the time frame of it, issues between the girls, or if the girls in poor frame of mind they can't switch that off.

Staff also discussed difficulties around clarity of roles during the group sessions, particularly regarding challenging difficult behaviours presented by the young people:

Probably the worst bits for me, was just not having that bit of control over the young people when they were getting out of hand (I: right okay). With the staff, we felt sometimes they were getting disrespectful and we didn't want to step in (uh-huh) because it wasn't our environment (I: okay). However, at times we did step in because we thought this is going too far now and were going to (I: okay) put a stop to this.

Despite this, staff spoke exceptionally positively of the facilitators:

probably the best bits was the relationship that the facilitators had with the young people, cause that was evident that they were very comfortable and very... very happy to open up and talk about their own personal experiences, which for young people in this line of work is not easy.

I think the girls in SIS [Specialist Intervention Service] have been absolutely brilliant and have been...kind of... consistent all the way through.

Overall staff spoke positively of DBT in terms of the facilitators, relationships and content. Staff felt that these had an impact on the efficacy of the intervention as a whole, noting that young people were able to retain and implement learning from the sessions due to the relationships they had developed. Areas for change appeared more related to practicalities for example the duration, size and timeframe of the skills group.

## Theme 4: How DBT has helped

### Young person views

The majority of young people who engaged in the DBT skills group reflected positively about ways in which they thought their management of emotions/challenges changed:

If it wasnae for DBT I'd be in a bad place ...that's all Im saying.

Coping strategies and all of that...like how to deal with that.like...[ ] it's [ ] made me think like...I'm not the only one here...you need to listen to other people's views...see how... cause ...sometimes...like your way of doing it is not always the right way.

I never really used to speak to anybody and then we're doing stuff like that in DBT and they said like if you can't really manage it, try like just asking like for help in another way to start off with so now I tried that and it's kinda getting me there.

Interpersonal relationships also appear to be a key area in which young people noticed a change due to engaging in DBT:

when we were in a mood with each other like the other person wouldn't even realise ...they'd just be like 'eh...naw' {waved hand away} ...but now we can actually sit down and say 'are you ok with me? Can you explain what I've done wrong' and all that

before I started DBT I couldn't work in a group (I: really) I was really bad, I didn't like working with other people [ ] (I: okay)... I liked to do things my own way and when other people tried to...like interact...[ ] and I was trying to do it...I would get really pissed off and then I would get really angry...DBT has helped me a lot with that... (I: right okay)...so now I'm actually able to work in a group.

Young people also noted a reduction in their involvement in incidents for example violence and absconding:

see before DBT I used to run away like three times every single week (I: okay) see now I've run away like once every like five months (I: right) just when I'm like really, really struggling.

I was kicking off like every day and now that I'm going to DBT and coming to SIS I'm like getting restrained maybe once every 3 months... and hopefully that will build up to not getting restrained at all

One young person reported they did not act differently in any way following engaging in DBT however then recalled a video clip they had watched which had stuck with them about validation and understanding another person's feelings.

### Staff views

Staff reflected on the differences they noticed in the young people who engaged in the DBT skills group:

I believe it has made a difference... to... a lot of the behaviours, erm... they are using the language and... I believe at times of crisis, they are able to come out of it quicker, because of some of the skills that they've learned.

yes I think, as I said before it's kind of brought staffing and young people closer together erm... they're... more willing to come and... seek us out for support rather than maybe self-harm.

Staff also discussed ways in which they felt their engagement in the intervention group benefitted their own practice:

It's taught me some skills, it kind of introduced me to mindfulness if I've been honest, I've got mindfulness app on my phone.

I'm not saying we weren't nurturing before but I would say it's more kind of nurturing (I: okay), as to how we deal with situations we kind of think things through before we go in (Staff R3: aye), instead of using counter aggression. No I think its worked.

All staff noted positive changes for themselves, their practice and the young people in their care. Staff noted that young people attending DBT were taking on board the content of the intervention and implementing the skills in their day-to-day lives. Staff also felt they were responding differently based on their own learning from engaging in the skills group.

## **Theme 5: Staff involvement**

### **Young person views**

Some young people appeared to find staff involvement beneficial while others discussed the negative side of this. Positively, some young people thought that staff were able to respond to them more appropriately based on the content of the skills group. Additionally, some who initially were not keen for staff to attend changed their mind by the end of the intervention:

It maybe helps the staff manage OUR feelings.

I never used to think that it was a good thing (I: okay) but now I do because they're all learning what we're learning as well.

On the other hand, some young people discussed how they felt staff interfered with their engagement or with their link to SIS:

We need to see them in the unit all day... And I like SIS for me...

To be.... not my staff...and in here with me...I do not like it... and

it just really annoys me because staff are always like... 'SIS are for the staff and the young people...and I'm like no...It's really not... It's for the young people to learn...it just happens to be that you are here... I feel as if as well, the staff... they always answer all the questions and the young people don't really....get a chance.

Some young people also reflected that although there are positives to staff attending the group with them, there were some suggestions for improvement in this area:

See sometimes staff aren't coming to every single one... I don't see the point if they're not coming to every single one coz then you've got to explain it all over again.

It is helpful, but the other part isn't helpful because the other shift haven't been to DBT (I: Okay) ...so they don't know the coping strategies ...and they don't know how we feel and all of that.

Overall, although the young people did report some aspects of staff involvement that they were not keen on, they spoke positively about the impact having staff in the group can have in terms of supporting them with skills learning. Additionally, they discussed how they felt it improved staff understanding of themselves, which in turn helped with the support the young people felt they required.

### Staff views

Unanimously staff spoke positively about being involved in the skills group along with the young people. Staff appeared to feel that being within the group allowed them to offer hands on support within the unit as they had been present during the learning of skills as well as improving their own knowledge. Additionally, staff reflected on the improvements in relationships between staff and young people:

I think absolutely it is vital that staff, because the valuable lessons that staff learn, should be carrying back into the unit (I:

Okay, yeah), so I think that it is critical that staff from the unit take part and participate.

Ehh I felt like coming together as a... staff group and all the young people together, erm... it brought us all closer, closer with SIS as well.

Overall there appeared to be a lot of benefits of involving staff within the DBT skills group, in a number of areas. Some alterations suggested to this included ensuring this was approached consistently for example having the same staff and always having staff.

## Theme 6: Future/next steps

### Young person views

Young people discussed various aspects of the skills group, which they felt could be changed in the future for example the size of the group, the mix of the group, prizes and the length of time. Additionally, some young people reported they would find it useful if their individual SIS worker could attend the group:

maybe just like [the] mix up like instead of just doing like all ..like the same group that are together all the time (I: mmh) [maybe] like mix up a little bit or (I:okay) maybe...like with the staff thing. We should maybe do like do one..do one week on a Tuesday night and do one week on a Wednesday night something like that [I: Okay, so that the staff, both sets of staff can come?] Yeah.

It would probably be more helpful for your SIS worker to come to DBT like (I: okay) but some people may not mind.

It would probably help boys because then they know that there's someone on their side to help them [] It would be helpful to mix cause then boys can see how girls think and girls will see how the boys think.

Positively, some young people also felt there were no changes to consider for the future:

I don't think I would make any changes.

Just like more of the same stuff like...just to like recover all of it.

Overall, when discussing the future, young people spoke positively of the group, and several relayed sadness regarding the intervention being completed. Participants also spoke positively of the facilitators and were keen for them to run the group again.

### Staff views

Staff often discussed the practicalities of supporting the facilitation of psychological intervention within the residential setting:

It wasn't a pressure for me, however I understand that it might be a pressure on campus, because of the staffing levels, so where, for me its fine, because we accommodated it and we could accommodate, however if there is things happening within the units and it's not possible for staff to get away because of other things that are happening, then that possibly could be an issue.

I think maybe not so long (I: yeah), cut the courses shorter, the sessions shorter. [ ] I don't think... and this is just an observation, I don't think a lot of the units around the school have the same relationship with SIS (I: okay) and I think it's because us as staff team are open to new things and new learning.

Similar to the young people, staff discussed the mix of people within a group as well as the consistency of staff presence:

I think if a staff member is going occasionally, I don't think they'll see the benefit, where as if same staff member going regularly, they will see the benefits that the young people are getting.

I dunno if this, don't want to be taken this as a kind of sexist comment, but see likes of... if you had all the boys in \*\*\* unit for instance, I don't think, teenage maturity levels of teenage boys

and teenage girls is really different and I feel I don't know if you could get a group of teenage boys that would fully engage the way the girls have.

if your bringing them from different units it's going to maybe cause some communication problems but that's... that could be sorted.

Staff also discussed access to more information to increase their knowledge and confidence to support the intervention within the unit:

What I think would be beneficial as well, see of the back of you saying a wee recap thing, so see within that four-week period you said, if we got a wee folder with a wee kind of summary with the modules, and then although it's completely different to us going all the time and going for the months, if we had that to keep in the office, although something other side of shift can look at.

If a staff member attends the DBT sessions, there's a lot of paper work that we don't see on guidance on what the aim is and what they're actually doing, it probably would be useful for staff to actually see that (I: ahh okay). So that if when, the DBT sessions are finished (I: yip) because you won't remember everything, because I don't even remember everything just now, young person trying to guide them in the right way.

### **Theme 7 (young persons): Others' views on DBT**

One final, smaller theme that appeared to emerge within the interview with young people was what they thought other people's views were on them engaging in DBT. There was a mixture of young people who were not concerned about others' views, some felt others thought it was a positive and some who thought people would view them negatively because of it:

I dunno... they maybe think I'm a gimp ...I don't wanna know what other people think.... See if I was to go like' oh I go to DBT

to manage my emotions... ` they'd be like `you're chucked...you're nae my pal' I'd get bullied for it...I'd probably get started on for it...

I know my mum likes me doing it because my mum knows it's helped me a lot (I: okay)...my social worker likes me doing it because she knows that [ ] it's... I've improved a lot since I started doing it.

[I: would it matter to you if people who are close to you didn't approve?] No [I: You wouldn't do it anyway?] `cause that's what I like doing and I know that it's helped me.

On the whole, particularly in interview following completion of the intervention, young people reported that the people in their life (e.g. family, social work) thought positively of their engagement within DBT skills group and noted positive changes in their presentation due to this.

## **Discussion and conclusion**

The above report aimed to evaluate a DBT skills group completed with young females in a youth residential setting in Scotland. The evaluation aimed to understand the viewpoint of both staff and young people who were involved in the intervention group. Seven overarching themes were drawn from the data, with six of these overlapping somewhat between staff and young people and one additional theme for young people. It must be noted that a larger number of individuals completed the initial interviews (n=6) whilst less completed the post-intervention interviews (n=4). Half of those in the post-intervention interviews had only joined the group halfway through; thus, it was not the same individuals interviewed each time and this may have impacted on the results.

Staff and young people alike demonstrated a good understanding of DBT and the purpose of the intervention within the unit. The high occurrence of mindfulness and emotion regulation discussion could reflect the fact that emotions are key within all modules. For example, distress tolerance is aimed at managing how one feels and responds to crises while interpersonal effectiveness may discuss the emotional connection between people or how emotions may impact on ability

to form and maintain relationships. Regardless of these idiosyncrasies, all participants appeared to have a good overall grasp of the aim of DBT as an intervention and why it was useful to engage in.

Hands-on learning appeared to be the preferred approach within sessions. Young people reported that they did not engage as much or feel they gained as much from sessions that involved sitting talking or listening to each other or the facilitators. Staff also discussed their confidence to offer support within and outside of the group. Some staff felt that they would have benefitted from more training prior to the intervention commencing although they did feel that being a part of the group allowed them to build their knowledge and understanding along the way. Potentially staff should be offered more input and training from facilitators prior to the commencement of the group.

Staff and young people reflected positively about the group overall, and particularly positively about the facilitators. Both staff and young people felt that smaller groups might have been better, allowing for more participants' voices to be heard. There were also discussions around mixed gender groups, which appears to be diverse in views across all participants. Both staff and young people thought that it would be better for sessions to be shorter as well as the overall programme to be shorter in length. However, given the nature of the intervention it is unlikely that this could be meaningfully fulfilled without losing key aspects of the intervention.

Everyone involved in the intervention noted positive changes. Young people noted improved emotion regulation, reduced involvement in incidents (e.g. aggression) and healthier interactions with others. Staff felt they were more able to respond appropriately to young people and felt more knowledgeable about the aims of DBT to help them facilitate intervention and skills practice within the unit. Given the positive reflections, it is likely further DBT skills groups would be useful within this residential setting, to further embed the skills learned. This is also in line with research purporting that DBT with adolescents should be repeated to encompass one year of treatment (Rathus & Miller, 2015).

Young people were mixed in their views about staff involvement initially with some feeling that their attendance at DBT was a separate entity and should be

discretely with DBT facilitators. However, following completion of the group many young people spoke about the benefits of having staff present in the group as it allowed them to have a shared understanding as well as additional DBT support within the unit. Staff all spoke positively of their attendance in the group as they felt this increased their own knowledge and that it allowed them to feel more confident in supporting young people during times of crisis using skills learned from the intervention.

Young people had a variety of thoughts on what others' may think of their engagement within DBT, however on the whole felt it was positive as important people in their lives were keen on them engaging and noted positive changes in their behaviour.

### **Considerations for future**

Staff and young people suggested that prizes offered should be changed, that groups should be smaller if possible, as well as shorter in duration. Mixing the groups to include other units and mixed genders was discussed, although there was not a consensus on this. Some young people felt it may be beneficial to have the viewpoints of male peers within the group, whilst others felt it was best remaining unit specific due to the personal nature of some of the sessions. Staff discussed the access to time and resources, reporting that some units may not have the same ability to offer staff the way they can. They also reflected that although they were given time, it was not always consistent and therefore there was not always the same staff to attend the sessions. Based on these views, mixing units and genders to develop intervention groups may not be feasible or meaningful overall. Providing training to staff prior to the intervention commencing re-cap groups throughout the programme to increase confidence and knowledge for staff may be beneficial. Positively, some young people felt that there was no need to change anything about the intervention and they were keen for it to re-commence.

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# Legislating for Love

Kathleen A Marshall

## **Abstract**

Everyone needs to feel loved. The author examines what 'love' means in the context of residential childcare. She discusses issues of: personal and professional boundaries; power and abuse; people and systems; rights and expectations. She sets out a vision of what residential childcare might look like in the future and concludes that legislating for love is both possible and desirable in setting aspirations.

## **Keywords**

Residential care, child, care, love

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## Introduction

This is not an academic paper. It is a personal reflection based on more than 30 years' experience of working with, and thinking about, issues relating to children and young people. It represents my groping towards some kind of vision of what a care system might look like that provides a truly loving environment for the children and young people it embraces.

Mine is the perspective of an adult with no personal experience of living within the care system. But that does not relieve me of the responsibility to comment – to try to make sense of what I have heard and what I have learned and to offer it up as a contribution to the debate.

## What experience do I bring to this issue?

In 1989, I started work at the newly established Scottish Child Law Centre, and in 1990 was appointed as its Director. From 1994 to 2004, I acted as an independent consultant on child law and children's rights. During that time, I chaired an inquiry into historical abuse in Edinburgh children's homes. The Inquiry arose out of the convictions of Gordon Knott and Brian McLennan for abuse of residents of three children's homes (Clerwood, Dean House and Glenallan) between 1973 and 1987. The Inquiry's report was published in January 1999 (Marshall, Jamieson & Finlayson, 1999).

From 2004 to 2009, I served as Scotland's first Commissioner for Children and Young People, a post with a wide remit but involving a substantial focus on residential care. In 2008, my office published *Sweet 16: the age of leaving care in Scotland* (Scotland's Commissioner for Children and Young People, 2008) and an accompanying information leaflet for young people thinking about leaving care.

My work since demitting office as Commissioner included participation in the pilot study *Time to be heard* for former residents of the childcare system that paved the way for the current National Confidential Forum. The pilot study, whose findings were published in 2011, focused on the experiences of former residents of Quarrier's Homes, Bridge of Weir, which operated from 1871 until 1989 (Shaw, 2011). I also served on the McLellan Commission which reported in

2015 on safeguarding procedures within the Roman Catholic Church (McLellan, 2011).

In this article, I will:

- Acknowledge work already done on 'love' in residential care;
- Ask what we mean by 'love';
- Discuss 'love' in Residential Care;
- Consider the issue of professional and personal boundaries;
- Discuss issues of power and abuse;
- Consider the relative importance of systems and people in shaping a loving childcare system;
- Offer some reflections from my personal life on the 'people' dimension;
- Offer some reflections from my professional life on the contribution a rights-based approach can make to shaping a system able to facilitate love;
- Set out some thoughts regarding a vision for the future; and
- Set out some conclusions on 'legislating for love.'

## **What we already know**

Children and young people living apart from their families face particular obstacles in satisfying the universal need to feel loved. Within the residential childcare system, some of the systemic obstacles are well known, such as the issue of multiple placements, but the personal dimension – the 'love' factor – is more complex.

In recent years, a lot has been written about 'love' in the care system, indeed an entire issue of this journal was dedicated to it ([SJRCC, 13\(3\)](#)).

And the theme of love is prominent in the work of the current [Scottish Independent Care Review](#).

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## What do we mean by 'love'?

The leaflet accompanying the *Sweet 16* report was written by care-experienced young people. They wanted to include the word 'love' in the list of things needed to prepare them for independent living. This evoked the following response from Glasgow City Council (*Sweet 16*, p. 27):

We are concerned that this leaflet suggests that no young person should be moved on without the proper 'love'. The terminology love is not one we would use in Glasgow, as it is not something we demand of residential staff or foster carers. We would generally use the term 'care', which includes appropriate levels of emotional support.

This caused a great deal of hilarity in the office and I confess that, when speaking about the issue, I shamelessly poked fun at it. However, as I also indicated in the *Sweet 16* report, at one level I could see where they were coming from.

From an adult perspective, 'love' can be experienced as a dangerous word, suggesting inappropriate relationships, sexual exploitation and the undermining of professional boundaries. As in the Glasgow response above, professionals often feel more comfortable with concepts of care and compassion.

From a child's perspective, it seems to me that it is more about feeling valued, feeling special (in terms of the affectionate place held in the life of another) and being able to rely on an enduring commitment. The first point is not a problem from a professional point of view, but the second and third may be. For example:

- How many truly 'special' relationships can one person maintain?
- How do you ensure every child has at least one 'special' relationship? Can you just assign the role or does it have to be built on an emotional bond?
- Would the requirement for a commitment that goes through, and substantially beyond, a young person's time in care be too demanding for the

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worker? Is there a need for boundaries to prevent workers from becoming overwhelmed?

My conclusion is that a residential childcare system built on love, would need to make space for the nurture of special and enduring relationships in a way that recognises the needs of both the children and the workers.

## Love in residential care

The old poorhouses or workhouses, which included children amongst their inmates, were highly structured and, though 'God is Love' might have been plastered across the wall, it was far from the kind of affectionate love that children crave.

Early children's homes set up by passionate individuals often adopted a more compassionate approach. Quarriers Homes in Bridge of Weir is representative of a type of residential care that tried to emulate family life by a cottage-based system centred on house mothers and house fathers. A good Christian character and love for children were the requirements for the posts. The level of formality and the existence or absence of love depended very much on those heading up the cottages. Some participants in *Time to be heard* gave glowing accounts of their time in Quarriers, whereas others suffered years of oppression and abuse.

In a sense, that is quite representative of family life. It is a myth that all parents love their children. Most do, but some do not. For some children, their removal from their families into residential care was a huge relief and the source of great happiness. Modelling a residential childcare system on family life offers no guarantee of love.

Other children's homes were more institutionalised. One of those that featured in the Edinburgh Inquiry was Clerwood, which was described as having at one point a 'matronly feel' about the building with 'brasses well-polished' and a very hierarchical management structure (Marshall, Jamieson & Finlayson, 1999, p. 23). The period addressed by the Inquiry witnessed a general move away from this institutional approach towards a more relaxed atmosphere and a more homely environment, leading to a re-setting of some of these boundaries and

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introducing the possibility of deeper, more complex and potentially more contentious relationships between staff and residents.

Glenallan children's home experienced such a change of culture. Chid G had experienced various placements before being placed there in 1976. His description of the change from a deprived home, to an authoritarian regime and then to a relaxed one (Marshall, Jamieson & Finlayson, 1999, p. 28) is poignant:

I loved Glenallan at first because I was used to being in a house with no electricity, food or heat. [The former officer in charge] was great. She was religious and strict, but not abusively so. She made us say prayers before meals and going to bed. When she moved, Gordon [Knott] got the job as officer in charge. At first I thought he was a great guy. He lifted the rules. There were no more prayers and we could have sugar puffs instead of porridge.

The relaxed atmosphere clearly facilitated affectionate relationships but, as will be discussed below, this could lead to betrayal of the child's trust.

Many of the former residents of Quarriers said they never experienced any affection while resident in the home. Nevertheless, as part of the philosophy of creating a family-like environment they were required to call their house parents 'mummy' and 'daddy'. This was resented by some of the children who emphasised that they already had a mummy and daddy. I am also aware that some young people prefer residential care to foster care because they do not wish to be shoe-horned into a family environment where they feel they do not fit.

My conclusion is that the institutional models of the past cannot be seen as fertile ground for loving relationships. The surrogate family model will be appropriate for some children and young people, but others will benefit from more creative approaches.

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## Boundaries

Professional boundaries are more evident in institutional settings and can be reinforced by uniforms and the use of titles. But removing these does not remove the inner boundaries that workers may erect to allow them to:

- Protect their private lives and emotions from being overwhelmed by the needs of the children and young people they care for; and
- Protect their reputations in the face of suspicion of sexual abuse.

It is not just adults who set up boundaries; children and young people do so too, often with good reason, and we betray their trust if we encourage them to lower their boundaries and then fail to deliver on what we have promised.

From the child's perspective, boundaries might serve to:

- Avoid betrayal through disruption of relationships with workers; or
- Avoid getting too close to other residents.

I was very struck once by a comment from a young person in residential care that you didn't make friends in care, only acquaintances. I had naively assumed that some sort of family-type bond, or at least close friendship, might grow between young people living in the same environment. But, on reflection, I could understand that this would not necessarily be the case and that multiple placements and the complications of difficult personal histories might act as a barrier to this.

My conclusion is that we cannot just dismiss the need for boundaries without addressing the underlying functions they fulfil for workers, children and young people.

## Power and abuse

It is unfortunate that, in thinking about the future of residential care for children and young people, the issue of possible abuse has to have such a high profile. Sadly, experience has shown that children separated from their families may be abused, neglected and exploited by those who are supposed to care for them. Those who care for vulnerable people must have some authority or power to

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promote the best interests of their charges but, as the old saying goes, 'power tends to corrupt, and absolute power corrupts absolutely'.

The abuse that was the focus of the Edinburgh Inquiry occurred during that period when the formality evident in the earlier days of Clerwood and Glenallan was being dropped in favour of a more relaxed environment, with little external supervision or monitoring. To the children it felt like the officers in charge had absolute power – and they were not far wrong. What was clear from the Inquiry was that the power abused can be rooted either in autocracy (within a formal system) or in emotional manipulation (in a more relaxed environment).

*Edinburgh's Children* (Marshall, Jamieson & Finlayson, 1999, p. 25) sets out how Child E from Clerwood described the differences in approach of the two workers who she claimed abused her. Knott, she said, displayed a mixture of 'arrogance, confidence and friendliness'. He carried out his behaviour in a 'nicer way' than McLennan who she described as a bully.

A similar distinction was made by participants in *Time to be heard*. Shaw (Shaw, 2011, p. 52-3) observes that some said they did not know the abuse was wrong at the time and saw it as a sign of affection. They had enjoyed the feeling of being special. Others said they hated the perpetrators and the sexual abuse they experienced. They dreaded being approached, cornered, threatened, and denigrated.

*Edinburgh's Children* (Marshall, Jamieson & Finlayson, 1999, pp. 26-29) notes that, in Glenallan, the informal atmosphere fostered by Gordon Knott facilitated a lot of physical contact between staff and children. At weekends, they sat up late together to watch television and the lights were put out. Staff were aware that Child G (then aged 12) was a favourite of Knott who would cuddle up with him on the sofa and hug him. When the film ended, he would take the boy upstairs for a bath.

Child G said Knott presented himself as an alternative father to him at a time when his natural father was in prison for murdering his mother. Knott accepted that he had a favourite amongst the children, whilst continuing to deny some

aspects of the relationship. He said other staff had favourites too, although he did not suggest any accompanying suspicious behaviour.

Amongst the troubling aspects of this scenario is that the cosy scenes and special relationships children craved could act as a cover for abuse, although not, of course, by all staff of all children. It is understandable that the children would enjoy the closeness and the feeling of being special – of feeling loved. The dilemmas are:

- How the healthy aspects of warm and special relationships can be facilitated without being exploited; and
- How carers can be held accountable for their exercise of power without too much bureaucratic and risk-averse scrutiny.

### **Which is more important – the system or the people?**

Clearly there must be mechanisms in place to safeguard children and young people in all settings – whether in the family or in alternative settings, including residential care – and this requires a system.

One thing that has become clear from a whole swathe of inquiries is that whatever system is adopted, it must be a listening one. It must be able to listen to children and young people, take what they say seriously and respond appropriately to any concerns they may have. It must listen to the friends and family of those in residential care – even those who may be regarded as troublemakers or suspected of having another agenda. (This was an issue in a case reported in *Edinburgh's Children* (Marshall, Jamieson & Finlayson, 1999, pp. 63-66).

The character of carers is of course supremely important. Sometimes in the past this has been a neglected concern. *Edinburgh's Children* (Marshall, Jamieson & Finlayson, 1999, p. 127) described how easy it was in the past to get work in a children's home and observed that even as late as 1993, there was a report of someone being recruited in a pub to do a shift that night.

In Quarriers, there was emphasis on the character of the carers, but it is clear that being a 'good Christian person' in the eyes of the adult community is no

guarantee. And the requirement to have a love for children may not have been tested beyond a formal assent by the applicant.

The physical, sexual and emotional abuse perpetrated by some members of Roman Catholic religious orders involved in residential childcare has been horrific. It makes me wonder how people become abusers. Some, no doubt, seek out environments in which they will have access to vulnerable people in order to abuse them, but others may have entered religious life with high and worthy motives and somehow got caught up in it. It would be interesting to do some research on the perspective of members of those religious orders who were involved in acknowledged abuse to find out what happened. I can see that this might be regarded as giving abusers an opportunity to explain away their behaviour and deny personal culpability, but I think there is an important question that needs addressed: can a bad system or culture corrupt a carer?

If we are talking about love, then clearly the character of the carer is paramount. But how do you assess that accurately? During the Edinburgh Inquiry it became clear that many of the positive traits of an effective worker with children and young people could also facilitate abuse through the appearance of empathy, affection, the ability to get close to children and young people and engage their trust.

My conclusion is that both systems and people are important. You need an effective system to ensure safe recruitment practices and to monitor what is happening in interactions between carers and their charges, and you also need to ensure that those recruited are open to warm and loving relationships with the children and young people in their care.

## **People: reflections from my personal life**

When I think or write about love in residential care, I sometimes feel like a hypocrite. I ask myself whether I am asking more of residential care workers than I would be prepared to give myself.

Before I became involved in child law and children's rights, when my children were still young, I worked as a volunteer for a hospice. I befriended terminally ill

people and their families, and the relationships would continue for a period after the death of the family member. I was prepared to get close to people and I believed that closeness was something volunteers had to contribute that was additional to what professionals could give, with their workloads and professional objectivity.

In most cases, I could retire gracefully as the bereaved took up the threads of support from other family members or friends. One case was more challenging – a widow with no supportive family or friends who made increasing demands upon me. I tried to do what I could as she was very needy, but it became clear to me that it was not sustainable; she would never be satisfied unless I left my family and became the daughter she never had. I eventually had to bow out and I felt that I had failed. Sometime afterwards, I started work at the Scottish Child Law Centre. I tried to maintain my person-centred approach on the Centre's advice line. My approach was that there was no such thing as a legal problem in child and family law, there were only people problems, and the law provided a set of tools to unpick them. But I admit it was a relief to be able to step back a little from the intensity of inter-personal relations in my voluntary work and have a little bit of professional distance.

When I reflected on my experience as a hospice volunteer, I concluded that the magnitude of the kind of need I had encountered in that case could be met effectively only by a group of people – preferably a small and still personal group – rather than an individual.

Later on, in my professional life, I encountered social workers, care workers and foster carers who somehow seemed to maintain intimate and complex relationships with a considerable number of children and young people, sometimes in very difficult circumstances. That gives me faith that what is being contemplated in the 'love' agenda is achievable; but my conclusion is that we should be wary of asking too much of the general run of workers and ensure they are not overwhelmed by the demands placed upon them.

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## Systems: reflections from my professional life

The UN Convention on the Rights of the Child famously proclaims that:

the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding (General Assembly of the United Nations, 1989).

It, and a number of subsequent international documents, set out a whole swathe of standards for residential care to respect the rights of the child residents.

Rights are important and they can be useful. They can help shape an environment that allows loving relationships to grow.

In April 2004, just before I took up my appointment as Scotland's first Commissioner for Children and Young People, I gave evidence to an All-Party Parliamentary Group at Westminster which was considering proposals for a Children's Commissioner for England, and this is what I said:

Rights are sometimes presented as the common currency of a selfish, individualistic society. However, it is my contention that the rights of the child represent:

- A *promise* by a society that cares about its children;
- A *claim* by those children upon that society, to keep it to its promise; and
- A *positive standard* against which the quality of our children's lives can be measured.

One could characterise Children's Commissioners as the 'guardians of the promise', acting on behalf of children and young people to hold our society to its own promises, even when the going gets tough, when the standards that were set in the cool light of day become inconvenient or over-burdensome, or politically inexpedient.

The last sentence is important because, if rights cannot be easily enforced, they are merely a fair-weather friend.

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*Edinburgh's Children* (Marshall, Jamieson & Finlayson, 1999, p. 152) reported that, in order to effect necessary savings, Edinburgh City Council was applying a 'performance factor' to achieve budget cuts across the local authority. This had also been applied to residential childcare, meaning some posts had to be left vacant. Extra temporary staff were employed, but this disrupted key worker relationships with children, undermining the flourishing of a loving environment.

*Edinburgh's Children* (Marshall, Jamieson & Finlayson, 1999, p. 262) commented:

The United Nations Convention on the Rights of the Child requires local authorities to regard the welfare of children as a primary consideration in all matters that concern them. This applies also to the allocation of resources. Children looked after by the Council cannot be regarded as another budget heading to which savings can be applied.

In response to the Inquiry's recommendation, the Council removed the performance factor from residential care.

I wish I could say that battles once won are won forever, but that is not the case. The rights of the most vulnerable in society will always be at risk of being undercut by those with greater power and resources. It is and will be a continuing battle to make sure the rights of children and young people are enforced.

I am aware that there has been discussion about the impact of more recent budget cuts on services for children. My conclusion is that it is imperative that children and young people, particularly those at risk, have adequate, appropriate and accessible means, and advocates, to challenge abrogation of their rights, especially where they impact upon nurture and love.

## **Towards a vision for the future**

Here are my conclusions so far:

1. A residential childcare system built on love, would need to make space for the nurture of special and enduring relationships in a way that recognises the needs of both the children and the workers.
2. The institutional models of the past cannot be seen as fertile ground for loving relationships. The surrogate family model will be appropriate for some children and young people, but others will benefit from more creative approaches.
3. We cannot just dismiss the need for boundaries without addressing the underlying functions they fulfil for workers, children and young people.
4. A residential childcare system must be designed to:
  1. Facilitate the healthy aspects of warm and special relationships while mitigating the possibility of these being exploited; and
  2. Hold carers accountable for their exercise of power without too much bureaucratic and risk-averse scrutiny.
5. Both systems and people are important. Effective systems should ensure safe recruitment practices and monitor what is happening in interactions between carers and their charges. Those recruited should be open to warm and loving relationships with the children and young people in their care.
6. The system should also take care that workers are not overwhelmed by the demands placed upon them.
7. No system is perfect, and no person is perfect, and we should never be complacent. It is imperative that children and young people, particularly those at risk, have adequate, appropriate and accessible means and advocates to express their concerns and to challenge abrogation of their rights, especially where they impact upon nurture and love.

What might a residential childcare system look like that was built upon these principles?

First of all, I should say that this focus on residential care in no way undermines or contradicts the need for kinship care or foster care which will be the most appropriate solutions for many children and young people. Residential care provision should be flexible, allowing options to meet the needs of individual children and young people.

Where children or young people are likely to be in residential care for a number of years, I would like to see thought being given to matching small peer groups and setting them up in houses chosen to meet their needs. These would not be 'children's homes' with 'statements of functions and objectives' but more-or-less ordinary houses (perhaps two houses or flats knocked together) designed around the needs and legitimate wishes of the children and young people resident there. There would be no pressure on them to leave their home when they reached a particular age, though the type of support provided to them might change. Indeed, one or all of the young people might subsequently rent or even buy the house and live in it for many years. Of course, you cannot rely on peer relationships enduring any more than you can assume that siblings will care for each other and want to have a special place in each other's lives, but it may be that, for some young people, their peer relationships turn out to be more enduring and loving than relationships with adult carers.

There would, of course, have to be a facility for staff to live in. Ideally, this would be the usual place of residence of two staff who are committed to stability, but it would also have to be recognised that this could not be guaranteed. The live-in staff should be supported by others who visited regularly and stayed over at times, just like relatives in any family. The aim would be to set the scene for children and young people to develop strong peer relationships as well as loving relationships with those who care for them. It would provide extra eyes and ears for the purpose of monitoring, as well as widening the network of love and support for the children and young people and avoiding burn-out of staff.

Of course, this model would not be appropriate for all children and young people: some will need more support and specialist intervention. But the

principles of facilitating as normal a life as possible and warm loving relationships should guide whatever provision was designed around the young person's particular needs. It should not be a 'children's home': it should be *their* home.

As well as this focus on particular small groups of children, there might be a hub of support and friendship open to all care-experienced young people and their current or former carers. This would have a social element as well as providing advice and assistance and might be particularly helpful as a point of contact and support for those who have become estranged from their peer group or their former carers, allowing new relationships to be established.

This hub might also be a place where young people, staff and former staff could express concerns about current or past care with full confidence that they will be listened to and taken seriously. The hub would have ready access to legal, advocacy and other support services.

### **Can you legislate for love?**

It is, I believe, reasonable to introduce the word 'love' into a law for children in order to set out an expectation that forces us to wrestle with the complicated demands it makes upon us. That does not mean love will magically appear. 'Love thy neighbour' has been a religious command for millennia, but not even the threat of eternal torment in the fires of Hell has forced religious people to comply.

Nor does inserting love into the job description of a care worker guarantee a loving approach to their engagement with children and young people. It was part of the requirement for work as a Quarrier's house parent, but that does not seem to have been a barrier to neglect and abuse.

Nor can we guarantee that any love offered by staff will be reciprocated by children and young people. They have to go through a process of learning to trust and to let down any barriers they have erected to avoid further hurt. And if they do so, we must not let them down.

We cannot command love, but we can and should aspire to it. We should name it as our aspiration and do our best to create the conditions in which it can be nurtured.

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Kathleen Marshall is a retired solicitor and child law consultant. From 1989 to 1994, she was Director of the Scottish Child Law Centre. For the next ten years, she was a child law consultant and one of her tasks was to chair an inquiry into historical abuse in children's homes in Edinburgh. In 2004 she was appointed as the first Commissioner for Children and Young People in Scotland. On demitting office in 2009, she undertook a number of consultancy projects, particularly in Northern Ireland and Guernsey.

# Learning from positive historical child care practice

Moyra Hawthorn

## Abstract

Much current media reporting of historical residential childcare provision focuses on abusive practices and child care systems which failed to protect children and young people. There are, however, other narrative lines woven through 'abuse enquiries' and the accounts of individuals, which receive less attention. These are instances and accounts of exemplary practice, of residential care practitioners committed to ensuring that children and young people were nurtured, loved, and well prepared for adulthood. In this article, I will explore some of these kinds of memories, of adults who spent a significant part of their childhood in residential care, which were shared with me, as part of my Doctoral studies on historical institutional child abuse. I will consider the barriers to delivering such child-centred practice in current residential care provision and conclude by asking that we hold in mind in our daily practice making tomorrow's memories for the children in our care today.

## Keywords

Historical residential childcare practice, loving care, Scotland, care planning, memory.

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(I remember the cook giving me extras), I'd get bacon and eggs and things like that where others just got bits of bacon.

("Alasdair" in residential care 1915-c.1923)

I was put in the choir and the first night of the choir practice she said "where is the new child?", and she said "over here and stand beside me" and after that I had to stand beside her – I think she must have thought of me as special.

("Dorothy" in residential care 1940s-1950s)

Then in Church one of the visiting ministers would give us a bright meaningful sermon, I would glance sideways without moving my head to the transept gallery and see this nice smiling couple, my faith in myself restored for the time being.

("Helen" in care late 1930s-mid 1940s, unpublished autobiography)

*All names of care-experienced people are pseudonyms to preserve confidentiality*

Many will associate my writing with historical institutional child *abuse*; personal accounts of survivors and commentary on their accessing justice (Hawthorn, 2006; Hawthorn & Kendrick, 2011; Kendrick & Hawthorn 2012; Kendrick & Hawthorn, 2015; Kendrick, Hawthorn, Karim & Shaw, 2015; Hawthorn, 2018) and for the last fifteen years I have been actively involved in working with survivors of historical abuse of children in care, playing a part in Scottish initiatives such as the InterAction on Historical Child Abuse in Scotland and the Action Plan which was developed out of this (Scottish Human Rights Commission, 2014). In the course of enquiries seeking evidence from 'survivors of institutional abuse', however, regularly, a number of individuals would tell me of experience of care that had been significantly *positive*, some dating back to the 1920s, 1930s and 1940s. Warm memories have been recounted to me and are varyingly tender, sensitive, humorous, and, importantly, are memories which have sustained these individuals across the life-course into their later

years. In a time when there is regular media reporting of Inquiries into institutional abuse within Scotland and beyond, we do not usually hear about the positive memories, such as those of Margaret Irvine (2010) writing of My Happy Childhood in Care in Tenterfield Children's Home in Haddington, Scotland in the 1940s and 1950s. Neither do we hear of those stories shared with the National Confidential Forum (NCF) which was set up in Scotland in 2014 to listen to and acknowledge people's childhood experiences of institutional care in Scotland (National Confidential Forum, 2019a). The NCF report on their website (2019b) notes that 'amidst accounts of abuse and emotional neglect, a small number of people have come forward to talk about positive experiences of care.... about the care and attention that some staff gave them' (National Confidential Forum, 2019b).

In this paper, I will explore historical accounts of three people whom I have got to know in the course of my work. They describe long-lasting emotional and psychological benefits which they associate with the care they received as a child separated from their parents. The three aspects that they emphasise are respectively; memories of feeling 'special'; of experiencing the joy of music; and the deeply personal significance of spirituality. I invite practitioners and policy makers to consider the likelihood of care experienced young people today holding similarly affectionate memories in 70 years' time, and draw attention to some of the literature which suggests that in fact there are barriers which inhibit organisations and individual carers from providing such warm, personal care experiences within the current care system in Scotland. I will also include reflections of a small group of three care experienced young adults, who have been active in advocacy organisations, with whom I shared these historical accounts. I conclude by asking that as well as learning from narratives of abuse, we learn from the positive experiences of residential care historically, and contemplate the memories that we are creating for children and young people in our care today.

## **'Historical' good care experiences**

### **1. Significant Relationships and feeling special**

Some of my respondents reported examples of feeling particularly cared for by being given special attention or care, some kind of special 'treatment' from a particular person which made them feel noticed and valued – which today we might describe as empathic, individual and *relational* care. While at this distance of time we cannot know what the rationale of their care-givers had been for giving them something extra, it is possible to infer it. Alasdair, one of the three quoted at the start of this article has a strong memory of being given eggs as well as 'just the bacon' which he saw the others receiving. Alasdair was not alone in feeling that he was treated differently when being given bacon and eggs; Lewis, who did not have family he could return to during school holidays, was in a former 'Approved School' (still a residential school today). He also recalled being very well cared for:

[Staff] took me to their homes and they showed me how to do the garden and do jobs like that. I was having home cooked meals at their own tables. I was permitted my own room away from the rest of my peers. I was allowed my own room.

("Lewis" in residential care 1950s)

Dorothy, in care in the 1940s, did not frame her experiences as being treated differently to other young people, but, having lost contact with all of her family through her parents' marriage breakdown, her father's premature death and her brothers' emigration to Australia through the Child Migrant Scheme, she was utterly without contact with any of her family. She described working in the baby nursery – part of the large 'orphanage' where she lived – when she left school:

[One nun] rescued me from what might have turned out to be a lifetime of bitterness, anger, hatred and even a need for revenge. She was the 'Mother Figure' I longed for at that period of my life, guiding and pointing me in the right direction; urging

me to recognise, as she herself had, that genuine goodness and love will eventually win.

("Dorothy", unpublished personal narrative)

The experience of this relationship remained significant to Dorothy throughout her life. The home continued her apprenticeship in 'nursery nursing' (as 'early years' education' used to be called) by sending her to a local college on a day-release basis.

While today some would caution against residential care staff developing such 'special' relationships, pointing to the danger of *unwarranted* positive treatment, or 'favouritism' (Kent, 1997, p.76), there was no indication whatsoever in the accounts of these care-experienced people that these relationships were anything other than nurturing, caring and highly professional. Despite my substantial experience of engaging with survivors of historical abuse within care, and my consequent keen awareness of the risks of abuse, I share the concern of many others that policy and practice changes over the last 20 years or so, intended to safeguard children, have in fact had a detrimental impact on the quality of residential care experienced by children and young people (Garfat, 1998; Horwarth, 2000; Howard, 2012; Smith, 2009). The contention of these authors, and many of my residential care colleagues, is, that a risk-averse approach to child protection or safeguarding has resulted in unintended consequences, whereby children are left vulnerable to what may be regarded as new forms of system abuse. System abuse is described as a failure of laws, policies, practices and procedures to protect children and young people (Gil, 1982; Bibby, 1996; Williams of Mostyn, 1996 in Stein, 2006), what Stein (2006) refers to as *system outcome abuse* (Stein's italics) in that there is a failure of law, policies, practice and procedures to protect, compensate and promote the maximum outcomes for looked after children. Despite Kent cautioning against creating 'a sterile care climate,' (1997, p.18), and the intention of individualised care practice via tools such as individual care plans, many staff today would be very unsure about having relationships with young people which may be deemed 'special' in some way.

## When did we lose love?

One care experienced young adult with whom I discussed this article posed the question, “when did we lose love in the care system?”. Mark Smith, residential care practitioner, manager and academic, offers a possible explanation: citing Douglas and Payne, (1981) who identified a shift to an ‘industrial model’ of residential care, with the introduction of industrial practices and conditions to human service organisation in the 1970s (Smith, 2015). He claims that this was the start of the far greater separation of personal and professional commitment over recent decades, as notions of vocation and personal commitment were devalued and replaced by notions of professionalism and defined job roles. This was reflected in the move away from staff living on site and the adoption of shift systems, and local authorities taking greater control of voluntary sector homes and schools, integrating them into their newly developing social work departments. This was part of a major transformation within the wider care system in Scotland at the time, and some of it is unarguable– such as a greater emphasis on *preventive* social work to support families and prevent the separation of children and attempts to promote quick rehabilitation back to parents, and thus aspiring to use residential and foster care as shorter-term measures. However, the impact of this ‘modernising’ and preventive social work approach on personal, nurturing, indeed *loving* residential care — the goal of the current Independent Care Review — was perhaps not progressive. Writing at the time Douglas and Payne (1981) identified the root problem as being that ‘caring becomes “just another job”’; a matter of clocking in and out of shift (in Smith 2015, p.9). And from the later 1980s onwards emerged another trend within social work related to new ideas about public services in general, a ‘culture of managerialism (Howard, 2012; Smith, 2009). Smith (2009) argues that this has led to a reduction in the level of responsibility and autonomy previously enjoyed in residential settings, as the authority of heads of homes was eroded and increasingly located in external managers, often with little experience or understanding of residential childcare.

Undoubtedly one of the reasons that traditional cultures of residential care, involving close parental-type relationships, came under suspicion was the

discovery of previously unrecognised instances of abuse of children — physical and sexual — by members of staff. Corby, Doig and Roberts (2001) identify the dysfunctional consequences of inquiries and the impact on staff; blow to morale, decline in the quantity and range of residential care, shifting the problem elsewhere, and residential social work becoming over-defensive, over-bureaucratised and 'proceduralised' (pp.181-183). The impact on the quality of relationships between residential carers and children — surely at the heart of the raising of children — is that residential workers may be viewed with suspicion both publically and within their own agencies. This causes feelings of insecurity; knowing that the ultimate authority lies outwith the care relationship, in various codes, procedures and external regulatory bodies; 'they cover their back (and) the care of children becomes subsumed beneath a concern to cover their own safety' (Smith, 2009, p.48). Such scrutiny will result in 'childcare with kid gloves on' hence losing the personal, intimate caring aspect of children's residential services (Horwath, 2000). As recognised above in relation to historical abuse, it may be several years before the consequences of such defensive practice become manifest (Kendrick & Hawthorn, 2012) during which time such sterile and distancing policies and practices may have become uncritically accepted and seen as a *valid, and indeed necessary*, response to historic abuse. It is my contention that it is *necessary, and perfectly possible*, with our current stock of knowledge, ethical commitments and professionalism, to find ways of keeping children protected from abusers, and abusive care practice, and to provide them with close, personal loving care, appropriate to the age and stage of each infant, child and young person.

Writing recently about relation-based practice in the Republic of Ireland — another country with extensive revelations of widespread and deep-rooted abuse within supposed care homes (Government of Ireland, 2009) — Brown, Winter, and Carr (2018) found that experiences and views of residential care workers had been compromised and constrained because of a 'prevailing culture of fear' that pervades the sector and that this shaped and informed daily practice. My own recent discussions with a number of care experienced young adults indicates that there is undoubtedly a mixed picture in terms of caring care; with

some excellent practice, akin to the historical vignettes described above, but there are also many references to practice which echoes such a culture of fear. This resonates with findings of Piper, Powell, and Stronach (2006) that current practice is more dependent on fears of accusation and litigation than any concern for a child and more recently those of Steckley (2011) in relation to restraint, that staff experience anxieties related to any form of touching young people.

## 2. Developing talents: discovering the joy of music

On moving to a different establishment, Dorothy, cited above, recalled being recognised as a talented singer: She reminisced:

I loved my choir. It was a comfort to me to be singing. It was my comfort; I just loved my music.

Many years later she visited one of the nuns with whom she had had a positive relationship, when the nun was being cared for in a nursing home. She was moved that the Sister remembered her:

She is in her nineties. I went to visit her two Christmases ago and she has got Alzheimer's and she is going blind and the girl said "this is Dorothy" and she sat back like that and she said "Dorothy that sang in the choir?" and I said "yes, the same one" and I said "will we sing a wee hymn?" And we sang a wee hymn and she remembered then.

After retirement, as a manager in older people's services, Dorothy traced her family. By now all her immediate family were deceased but she was able to meet with her nieces.

I have since discovered that all my family were musical and I am now in the last four years taking piano lessons ... I am rubbish but I love music.

Though her siblings are deceased, there was a sense of Dorothy reclaiming family identity through connecting with her nieces and through music. The

identity of being 'musical' remained important to Dorothy throughout her life, providing cohesion to her personal narrative and linking family and residential care in a positive way.

While the details of this narrative were 'of its time'; the orphanage choir, visiting her former carer in the nursing home, the underlying issues are similar to those for care experienced children and young people now: identity, developing talent and the value of music as well as continuity of relationships. While active music making is believed to have benefits for children and young people (Hallam, 2015), a recent study in Scotland commissioned by Creative Scotland identified barriers to children and young people in residential care engaging in music (Gracie, Hawthorn & McCue, 2018). Some of these barriers were organisational, similar to those cited above (Douglas & Payne, 1981; Smith 2015); the complexity of the residential care system in respect of staff cover and rotas, care planning systems and child protection regulations for recruitments of tutors. Other barriers to participation in creative activities are related to the nature of many children's care experience today, so often marked by change of placement and discontinuity. As we move forward and the role of Corporate Parent (Scottish Government, 2014) has been widened to include organisations such as Creative Scotland, there should be ways that looked after children and young people can access and sustain involvement in music activity and other creative opportunities. It is important that these are not just one-off events but developed in such a way as can become embedded in the child's care plan, their skills and interests, and their developing identity as they move through placements and into adulthood.

### 3. Spirituality

Helen, cited at the start of this article, showed me the Bible inscribed and given to her by a childhood friend in the children's home. Her Christian faith has remained important to her throughout her life; it has helped her face the challenges of being separated from her family and being in residential care. Barbara, in residential care in the early 1960s-1970s also had a strong sense of God and spirituality:

I was good at religious knowledge and it wasn't anything they taught me, it was because I had a love of God and I think God put it in me. He gave me that love; the only place I ever felt safe was in the chapel and I used to try and escape there into the Chapel and I could get away from them.  
("Barbara", in residential care 1960s)

Historically in Scotland many organisations that delivered childcare services were explicitly faith-based (Abrams, 1998; Smith 2017) and religious devotion was part of the in-care experience. Barbara and Helen lived in establishments that were either faith-based or had a strong underpinning religious ethos. Both found comfort in religion as children and although Barbara no longer defines herself as being of the Catholic faith she was brought up in, she describes herself as spiritual. Her relationship with God is still important to her.

The locus of religion and spirituality in daily life in Scotland is undoubtedly very different to when Helen and Barbara were children, but it is widely recognised that children and young people still have 'spiritual needs' (Barratt, 2009), and that for some children faith is part of their identity in terms of family background and culture. This is recognised in the United Nations Convention of the Rights of the Child where Article 20 states that:

A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment shall be entitled to special protection and assistance provided by the state....due regard will be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, *religious*, cultural and linguistic background.

It is recognised in the current Health and Social Care Standards (Care Inspectorate, 2017)

1 Dignity and respect:

1.1 I am accepted and valued whatever my needs, ability, gender, age, *faith*, mental health status, race, background or sexual orientation.

It is also addressed in the Children and Young Person (Scotland) Act 2014 in the Statutory Guidance Part 9 (Corporate Parenting):

Corporate parenting refers to an organisation's performance of actions necessary to uphold the rights and secure the wellbeing of looked after child or care leaver, and through which their physical, emotional, *spiritual*, social and educational development is promoted, from infancy through to Adulthood.

(Scottish Government, 2014)

Given the above, due regard should also be given to children and young people's *search for* spiritual solace and meaning even if not within the faith of their family of origin, possibly exemplified by the following encounter based on my own practice. While on a spiritual (Buddhist) retreat, I crawled out of my tent early one morning to see a young woman, last encountered several years previously when she was on the roof of a children's home in Glasgow, along with several other young people, taunting staff who were trying to encourage them down. After a mutual 'what are you doing here?', Sarah explained that after leaving residential care, life had been very difficult; she had become homeless and involved in substance misuse. She had, however, trained and worked as a chef. While watching television during one period of homelessness, she had seen some celebrities speaking about their Buddhist beliefs. This resonated with her. 'I want some of what they're on' she explained to a staff member in the Homeless Unit. The worker helped introduce her to a Buddhist centre and since then, when feeling under strain, she has developed a pattern of spending time in a Retreat Centre, and contributes by cooking for guests and staff. This set me wondering how staff in children's houses would respond if a young person approached them with such a request, to attend the worship of a minority religion in Scotland, which has not been part of their upbringing.

Little has been written about the spirituality of children and young people in residential care despite spirituality being recognised as a factor in promoting resilience (Daniel, Wassell & Gilligan, 1998; Werner, 1996 in Hill, Stafford, Seaman, Ross & Daniel, 2007). In an article in this journal in 2009, Chris Barratt, at the time a Care Commission Officer concluded that:

Religious and spiritual beliefs are inextricable from personal and cultural beliefs, but, despite being upheld by human rights legislation, they are not universally valued. Services for looked after and accommodated children, including residential child care services, have a poor track record in addressing these rights, seldom doing so more than superficially.

(Barratt, 2009, p.48)

Spirituality is about finding meaning and purpose (Walker, 2005 in Barratt, 2009), and bearing in mind the prior life experiences of looked after and accommodated children, their spiritual wellbeing should not be ignored. We are well past the days when children were drilled into religious practices simply because of the faith basis of the home or school they lived in, but in the same way that religious education forms part of the standard curriculum in schools, the care 'curriculum' should similarly strive to respond sensitively to children and young people's interests, and provide them with a range of opportunities whether or not this is related to the faith of their family of origin.

## **Conclusion**

Based on my experience of working with many people in care, currently and in the past, each of the above aspects of care merits further discussion and research. Current legislation and national standards in Scotland aspires to high quality care for all looked after children. Therefore, in relation to the areas covered in this paper: children should surely be able to feel that they are 'special' — being known, valued and cared for over time; to have easy access to creativity and music; and support on their spiritual journey.

In drawing this article together, the care experienced young adults with whom I had consulted shared their thoughts and experience, both of exemplary practice, such as where staff had kept them in mind even when the young people had moved out of the care establishment, and of what appeared to be over-defensive (so-called) professional practice, where there appeared to be a complete failure to meet children's needs for belonging, comfort and security. They agreed that in the past more staff seemed to be prepared to give of themselves, to have authentic relationships with young people and to meet their individual needs; while more recently, for some staff, there was an aversion to such close personal relationships.

In discussing these narratives, two of the young people suggested 'a golden thread' that connected all the positive aspects of historical care; the children had felt 'special' to one or more of those looking after them. In fact, what was happening was that the children's individual needs were being recognised and appropriate care practice was put in place. Perhaps Alasdair was an under-nourished child, hence the 'feasts' of bacon and eggs, or perhaps the cook saw him as particularly weak or vulnerable, either physically or emotionally, and was trying to build him up; Lewis was at residential school but unlike the other boys, did not have a home base and remained at the school on a full-time basis; so some of the school staff took him for visits to their own homes, and made sure he had his own space in the school. Dorothy movingly described herself as 'a broken wee creature' following the death of her father and emigration of her brothers to Australia; recognising this, the Sisters appear to have identified her talent and ability, gave her a role and responsibilities within the home, and access to further education, thus supporting her transition to adulthood.

Recognising the deficiencies in contemporary practice in Scotland, there is now a drive to redress the balance with initiatives such as 'Compassion' being one of the five underpinning principles in the recently revised Health and Social Care Standards (Care Inspectorate, 2018) and the aspiration of Love being at the heart of Scotland's care system (Brooks, 2018; Independent Care Review, 2019). Given these deeply humane, relational and personal aspirations there is an urgent need to examine ways in which barriers to warm relationships can be

removed and compassion can be put into practice, in the day-to-day lives and in the life-space of children and young people.

Possibly we should leave the last word to Dorothy who spoke with such affection of the Sister with whom she spent her last few years in residential care caring for the babies in the nursery:

She chose to take me under her wing and with patience, kindness and affection, took on the task of repairing the mental and physical wreck which was then me.....She certainly served as a yardstick for me throughout my adult life, and like my dear father, has my undying affection and gratitude.

(Unpublished written narrative)

Those of us working with children and young people need to challenge the systems and processes that govern our work and challenge ourselves by considering 'what life-long memories are we creating for the children and young people in our care today?'

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### **About the author**

Moyra has worked in child care for many years; in residential, fieldwork and projects in the statutory and voluntary sectors. She has worked initially at SIRCC then CELCIS since 2001.

Over the years Moyra has seen many changes, in our understanding of the way in which children and young people present and their journey through care, hence her interest in this topic.

# On Root/Route: Engaging nature as therapeutic partner through land praxis in residential child care contexts

Shannon A. Moore and Kimberley Duffin

## Abstract

Connection to land as a resource for resiliency and well-being is supported by evidenced-based literature for individuals across the life span. This paper invites the reader to imagine residential child and youth care as having a central connection to experiential nature-based therapies across rural and urban settings. To begin, this paper contextualises the notion of Land Praxis theoretically before exploring the application of nature-based therapies in residential care contexts. Drawing upon transdisciplinary and posthuman discourses, an emphasis on organic non-linear connections will be brought forward to inform the application of various experiential therapies in natural environments. As Canadian scholars and practitioners, the authors position themselves within the discourses informing this project while emphasizing the practical application of theory to practice. This standpoint is further informed by the understanding that young people living in residential care often demonstrate elevated mental health, educational, behavioural and social challenges. These realities are confounded by the current global climate crisis, which few now deny, and the increased anxiety associated with planet survival uncertainty. This paper presents an argument that more than ever returning to land-based experiences may be an antidote for the anxiety felt by many young people seeking agency over their uncertain futures.

## Keywords

Transdisciplinarity, post-humanism, land praxis, residential child care, nature based therapies, ecotherapy

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## Introduction

Young people in residential child care settings, out-of-home care, or living in child welfare contexts often have experiences of loss, discontinuity in care, complex attachments and maltreatment. These realities contribute to young people's experiences of elevated anxiety as well as social, behavioural and education challenges (Brown, Cadwick, Caygill & Powell, 2019; McCollam, 2009). In a Canadian context, these same factors are further entangled with 500 years of colonial history and the forced removal of Indigenous children and young people from their homes to residential school systems, from the 1880-1990s, as a central tool of cultural genocide (Truth and Reconciliation Commission of Canada, 2015, a, b). Today, Canada has more Indigenous young people in state care than at the height of the residential school system of forced removal of Indigenous children from their families, leading scholars to argue that the current child welfare system in Canada is a replacement for the residential school system that devastated Indigenous families and communities for over a century (Blackstock, 2007). The over-representation of Indigenous and Black children in Canada's child welfare system has further reinforced arguments that structural racism and white supremacy still shape the whole of Canada's post-war welfare state (Pon, Gosine & Philips, 2011).

As Canadians, both authors of this paper share similar identities as settler scholars and practitioners with many decades of combined direct practice experience working with children, young people, families and communities across service delivery contexts including residential child care. Both authors engage in scholarship and practice with a concern for social justice and how complex systems shape individual experiences in organic non-linear patterns. This standpoint emerges from a synthesis of transdisciplinary, complexity theory and feminist discourses (Moore, 2018).

## Conceptualising Land Praxis: Complexity and Interconnection

Theories are collections of ideas that shape how we ask, answer questions, respond to our life worlds (Moss & Petrie, 2002) and provide a type of

orientation map (Note, 2007). The authors of this paper share a worldview that engages childhood studies and practice through the lens of transdisciplinarity (Moore, 2018) and complexity theory (Hassett & Stevens, 2014). For the authors, young people's life worlds are characterized by 'rhizomatic becoming' (Moore, Tulk & Mitchell, 2005) which means a weaving together of risk and potential (Moore, 2018). This is a turn away from Western worldviews that emphasize individualism, reductionist analysis and anthropocentric domination (Haverkort, 2007; Nicolescu, 2007) and a move toward critical awareness of interconnection and holism (Clarysse & Moore, 2019; Morcon, 2017). Moore (2018) points to a transdisciplinary social justice framework to articulate this way of questioning and examining dominant forms of discipline-based knowledge beyond binary dynamics, such as human-nature dualism (Purser, Park, & Montouri, 1995), in order to access knowledge from non-privileged speakers with a deep concern for allyship with equity seeking communities. For the authors this framework facilitates movement between theory and practice reflected in Land Praxis and a leap into quantum intra-relationships (Barad, 2003, 2012; Stark, 2017).

## **Experiential Land-based Therapies as Land Praxis**

The authors take forward the notion of praxis from discourses in critical pedagogy and the pioneering education for liberation first proposed by Paulo Freire (1970). By raising political awareness Freire compelled pedagogues to focus on praxis through critical reflection and social action. Critical pedagogues are committed to critically conscious action (praxis) to act for social change (Moore, 2018). For the authors, this change process is deepened through an appreciation of interconnected webs that encompass human, material and natural dimensions. In this way, the authors embrace a post-human/quantum feminist ethos (Barad 2003, 2007, 2012; Stark 2017) as Land Praxis, emphasising our relationship with nature.

One of the cornerstone concepts of post-human/quantum feminisms is the idea of intra-action (Barad, 2003, 2007, 2012). Intra-action is to act from within the relationship, rather than being an objective observer outside of the relationship,

whether that be among individuals, material or natural entities. Intra-action is composed of entangled agencies that do not pre-exist separately but instead emerge as a result of relationships. Change in relationships understood through this lens is an iterative process of becoming where binary thinking is abandoned (Moore, 2018). As Guren (2015) suggests our lives are entangled with nature which has ethical consequences on how we engage. Seeing relationships as interconnected (Moore, 2017) is a holistic non-linear way of knowing that is congruent with what some Indigenous scholars articulate as holism (Morcon, 2017) or the subjectivities of all elements of nature (Kimmerer, 2015). There is a material force in all entities in nature and, as such, active bodies and materials all have a capacity to produce effects within complex webs of relationships (Bennett, 2010).

The understanding that human connection to the natural world enhances mental and physical well-being is well established (Chawla, 2015; Kellert & Wilson, 1993; Hand, Freeman, Seddon, Recio, Stein & van Heezik, 2017). Alienation from experiences in the natural world creates deficits in all senses, negatively impacts attention span and diminishes emotional and physical well-being (Louv, 2008). It has also been established that children's experiences in nature over the past twenty-years are diminishing (ibid). For the majority of the world's children an increased focus on vehicle mobility, use of technology, and concerns over safety impact young people's ability to spontaneous play outside in the natural world (Hand et al, 2017). Some research suggests that this suppression of biophilia (human affiliation with life and life-like processes) is being replaced with videophilia (attraction to electronic media) (Hand et al, 2017). Wilson (1984) introduced the term biophilia to refer to a developmental drive to affiliate with life/life like processes that is entwined with emotional, cognitive, aesthetic and spiritual well-being. In this current epoch, it seems sensible that the negative impact of young people's isolation from their natural world would only be further complicated by ecological grief and loss now associated with the impact of climate change on the planet and the resultant anxiety related to survival uncertainty (Cunsolo & Ellis, 2018).

## **Ideas to Practice: Nature-Based Experiential Therapy**

If we accept that human relationships with/in the natural world impact cognitive, emotional and physical well-being then intentional experiential engagement through nature-based therapy may act as an antidote to isolation from familial ties, community and school so often reflected in the lived experiences of young people living in out-of-home care contexts. The developing field of ecopsychology represents a social-therapeutic-environmental philosophy that reinforces the notion that reconnection with nature is essential, not only for the maintenance of the physical world (habitats, animals, plants, landscape and cultures) but also for people's basic well-being (Roszak, 2001; Totton, 2003). Nature is a core reference point as it adds creative, non-verbal and transpersonal dimensions. Engaging nature as a therapeutic partner, as one aspect of Land Praxis, has been a meaningful and effective response for the authors of this paper in their direct practice with young people. The following provides narrative context and future directions that may be taken forward by those working in residential child care contexts.

## **On Root/Route: Residential Child Care and Land Praxis**

The application of nature-based therapies to practice calls on therapists or care workers to engage an attitude of humility and vulnerability. These qualities foster attunement to situational knowledge, capacity for immediacy, and a quality of presenting in one's ways of knowing, doing and becoming (Nxumalo, 2019) in partnership with the young people. This commitment to hold space for present moment sensory opportunities assumes trustworthiness and safety are established with clients, and that the therapist or care worker retains a certain level of confidence. Compared to office or indoor therapeutic space there are fewer variables that can be controlled during nature-based therapies. The following description of dimensions reflected in the On Root/Route application of Land Praxis is imagined as a toolkit of resources that the authors of this paper have found useful in practice. To begin, a set of vignettes will set the context for application of these ideas. (Please note that pseudonyms replace names and other identifying information is changed in the stories below).

## Urban Office Practice

The following vignette begins in a family therapy office in a large urban context in Canada, working with a young girl named Emily:

As I was waiting in my office for my next client to arrive (an eight year old girl named Emily) sounds of the scheduled construction work overtook the space. I couldn't hear myself think nor could I hear anyone else that might wish to share their thoughts with me. As Emily sat across from me during the session, I began to probe into how her week had been going. Emily was a very quiet child and did not volunteer any information. With the work crew beginning to gear up in full force I suggested that we should get out of this noisy office and take a walk down the street. We walked without talking for about half a block and then I stated that I thought that there was a small park around the corner. We proceeded to make our way and came across a huge maple tree where someone had carved their initials into the trunk of the tree. Out of nowhere, this quiet child turned to me while touching the tree and asked me, "Do you think it hurts the tree when someone does this?" A discussion around hurt feelings ensued and I learned more about and gleaned more information in that instance than I had in the previous six sessions.

## Rural Farm Practice

This following vignette describes working with a young adolescent male in a rural farm practice where the therapist lives and works:

It is the cherry harvest and I always try to take those two weeks off. There was somewhat of an emergency visit required by one of my young clients. Arrangements were made with caregivers that my young client be dropped off at the farm. I was still in my farm clothes when they arrived and I proceeded to take the child,

Brian, out in the orchard with me. I asked Brian if he would mind helping me pick cherries. He was clearly upset but seemed to welcome the distraction and quickly agreed. As we worked side by side harvesting cherries Brian shared his inner world of emotions, cognitions and conflicts. After that spontaneous choice to harvest, all of our future sessions were outdoors on the farm. Sometimes we would engage in an activity and other times we would just sit in the middle of the orchard. Using nature as a therapeutic partner was the key to unlocking and understanding the inner workings of this child.

## **Rural Farm Group Practice**

The following vignette describes working with a group of young adults in a rural farm practice context:

It was the time of year for pruning of apple trees and I chose to hold a therapeutic group practice with young people on the farm in this context. The young adults in this therapeutic group joined in the process of pruning apple trees. Using the pruning metaphor we were able to come up with things that each person would like to “cut out of their life” so that they may grow and flourish in a new light. This is exactly what happens to these trees in nature as the apple tree is pruned to let the sunlight in and help it to grow and become productive.

These vignettes offer examples of how theories of nature-based experiential therapy can emerge in practice and land-based education (Moore, 2017; Watts, 2013). Understanding that a vast range of nature-based programs exist, the following application will focus on a synthesis of therapy and various nature-based interventions for young people as Land Praxis.

## **On Root/Route: Principles to Guide Practice**

Principles the authors have identified that can help lead effective nature-based therapeutic practice are:

1. Nature provides balance.
2. Nature is non-judgmental and always there.
3. An intimate relationship with nature can be developed.
4. Nature slows us down. Correlate therapy with nature's cycles.
5. Nature flattens hierarchies, dissolves binaries and lateralizes communication.
6. Nature allows a connection to the land. A safe territory equals a safe life.
7. Nature whole and integrates mind, body and spirit.
8. An active relationship with nature encourages stewardship of the land.
9. Nature is resilient.

Therapeutically, Land Praxis supports developing awareness of the parallel stories that exist between the young person's lifeworld and a natural story taking place in the background. Ethical practice always takes into account elements of safety and confidentiality, which can be more complicated when experiential outdoor therapy is engaged.

A common misunderstanding is the belief that one must be immersed in nature out in the wild to engage in nature therapy. This is erroneous. A wilderness context is not needed for a therapeutic change process. Nature-based therapy is about our reconnection and relationship with nature or being outside in any form that is effective for the therapeutic relationship. One example may be simply inviting a young person outside as an alternative to dialogue in a residential care space. This could begin by sitting outside on stairs into a building. It could be a small garden plot that the therapist takes the client to or a park or trail. Nature-based homework may be assigned in a way that directs the client to go outdoors and choose a place to visit several times each week in an urban or rural context (in both good and inclement weather). This exercise promotes heightened

sensory perception, a reconnection with and expanded knowledge of a natural/outdoor place, and a sense of belonging (Hasbach, 2012). There are many different definitions of nature and the key is to work with the client to find the best fit. Even if the therapist cannot conduct the session outdoors, one can still access nature as a therapeutic partner. For instance, a collection of artifacts from nature such as feathers, rocks, pinecones, stones, bark, vials of earth and sand can be kept in an office or residential child care setting. When clients are struggling, they can be invited to begin a dialogue through the use of metaphors connected to natural items previously collected by the therapist. Then, it becomes possible to probe into thoughts and feelings from that initiation. At the very least, it starts a reflection and then a conversation which hopefully provides a gateway to the issue at hand.

Hasbach (2012) has found that walk-and-talk therapy is often effective with teenagers and people who are dealing with anxiety and social skills deficits. Young clients often find comfort walking side by side with the counsellor rather than sitting and looking at each other face-to-face. Hasbach (2012) also believes that nature-based therapies are effective for children and youth with post-traumatic stress disorder and symptoms of dissociation. Employing nature is a way of helping clients recognize the calming effect that nature can have in addition to providing a sense of belonging. In turn, a sense of belonging may extend to something beyond themselves (nature, the universe) and can be a very valuable resource for the individual (ibid).

To engage Land Praxis, it is recommended that the residential child care worker include nature-based questions in their sessions. These may include: How much time do you spend in nature/outdoors? How do you define nature? What does nature mean to you? The answers to some of these questions will provide an insight into the client and more importantly it can help staff determine the best approach for integrating nature into therapy in the most beneficial manner possible for the client.

## Re-Storying: Tree of Life Narrative

The Tree of Life is a psychosocial tool based on narrative practice that uses the different parts of a tree as metaphors to represent the different aspects of our lives (Hirschson, S., Fritz, E., & Kilian, D., 2018; Jacobs, S. F., 2018; Stark, M., Quinn, B., Hennessey, K., Rutledge, A., Hunter, A., & Gordillo, P., 2018).

Narrative therapy centres people as experts in their own lives. That is, it draws upon people's skills, values and commitments as an essential tool for intervention. Central to this approach is a belief that people create meaning of their experiences through stories. These stories in turn impact the ways in which people live their lives. Narrative therapists ask questions in order to facilitate re-storying or re-authoring conversations that explore alternative narratives of people's strengths, skills and values with the aim of creating new possibilities for their lives (White, 2007). Engaging young people living in residential child care contexts in re-storying their experiences can bring forth narratives of strength, skills and resiliency that support well-being.

The Tree of Life tool traditionally involves individuals drawing their own tree of life indoors using the nature metaphor. If possible, however, practitioners are encouraged to take this exercise outside and stand before any tree available. Clients can be asked to imagine the roots as a prompt to discuss their life and family roots. Clients may be asked the source of their roots, if they feel rooted, and then they may describe the ground they are walking upon. As an alternative to drawing the trunk of a tree, a client may be asked: What makes up your trunk? What are your skills and abilities? Branches may be conceptualized as their hopes and dreams and the leaves as significant people (living or deceased) in their life. Reflections on the notion of fruits of the tree may be a place holder for unique gifts that client recognizes in themselves. Through the developing Tree of Life narrative nature themes unfold that may point to skills and strengths that the individual may not have recognized previously. Trees bend and move to adapt and weather storms, a theme any child in out-of-home care would find familiar. The narrative of the Tree of Life is a strength-based therapeutic model.

## Nature-Based Therapeutic Service

Another therapeutic tool that can be used by counsellors is the approach that blends mental health treatment with nature and service for a therapy that is not only beneficial for the individual but for the community and the environment. Nature engaged as a therapeutic partner encourages young people to become stewards of the environment with an increased knowledge and respect for the ecological concerns of the planet. Nature-based therapeutic service involves empowering clients to serve nature, develop relationships, build skills, connect to the land, community, and gain a sense of purpose and fulfilment. There are numerous programs aimed at building a relationship with nature. Practices like wilderness therapy, green exercise, care farms (where clients and farming come together to benefit both) and animal-assisted therapy help clients enjoy the benefits of reconnection. The overall impact of these programs is an improved relationship between humans and nature, improved emotional health for all species involved, and a stronger connection to sustainability (Marohn, 2012).

Nature-based therapeutic service is a project-based and goal-oriented approach to traditional mental health therapy, taking the therapy out of the office and into the natural world. It combines being with nature and doing service within the context of mental health therapy as it is both service-learning and ecotherapy. In this type of intervention, a therapist connects the individual to a need or problem in the natural community. Examples may include supporting a community garden project or volunteering at an animal shelter or going on hikes with the intention of cleaning up the trails. The therapist in this case helps the client serve, teaching the skills needed to carry out the service, and weaving the service work into therapy. The core principle is the commitment to nurture a reciprocal positive outcome for the participant, the natural setting and the community. For instance, one might engage in horticultural therapy in an urban environment or work with rescued animals. For young people living in residential child care contexts, multiple opportunities maybe accessed to learn and serve while being immersed in nature. Practitioners can take advantage of the opportunities to build their own network of groups, agencies, organizations that will enable them to comprise a curriculum dedicated to the service of nature.

## Closing Reflection

Life stories of young people living in residential care contexts are often complex and conflicted which contributes to uncertainty in the present and in the future. Young people living in residential care contexts often have troubled attachments which result in behavioural, academic and emotional challenges that isolate them from schools and integration into community. Land Praxis as described in this paper is a simple response to the often overwhelming narratives of young people living in residential care. These ideas are both ancient and contemporary and form part of a move to decolonise our thinking about binary narratives that reinforce oppositions such as human/non-human. The emphasis is a turn towards connection, re-connection and non-linear relationships. As C. G. Jung suggested 'sometimes a tree tells you more than can be read in books' (October 8th, 1947, cited in Adler & Jaffe (Eds.), 1992, p. 179). In this quote, Jung calls on therapists to remember simplicity returns us to a sense of self and wholeness. Through this paper the authors offer Land Praxis as a guide to this lateralization of communication, intra-action, relationality, and connection. As we imagine the future of residential child care practice, it is the authors' hope that Land Praxis provides a tool to support an increased sense of agency for young people facing uncertain futures.

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# A developing journey in residential child care

Danny Henderson

## Abstract

This paper explores the development of practice in residential child care, initially within the context of generally negative perceptions of this and the wider care system. Discussion of therapeutic perspectives is set within the context of the development of Care Visions residential services and considers the significance of the Sanctuary Model of trauma informed care and social pedagogical principles. It is suggested that approaches primarily defined by procedures can stifle the intuition of professional carers to respond meaningfully to the needs of young people. Compassionate relationships accompanied by an ethical disposition offer an effective alternative. The article concludes with a discussion about what has been learned through supporting continued relationships between professionals and young people after they have moved on from care, and a commitment to applying this in residential child care settings. This promises to support an approach that foregrounds trusting reciprocal relationships as a medium for healing and growth that facilitates nuance and differentiation while ensuring safety.

## Keywords

Hope, care visions, the sanctuary model, social pedagogy, Haltung, caring relationships, compassion, solidarity, continued relationships

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## Contemplation

We all enter the helping professions motivated by hope — the belief that we can contribute to a more just world. Vaclav Havel (1991) playwright and leader of the Czech 'velvet revolution' in 1989, describes this beautifully:

hope is an orientation of the spirit, an orientation of the heart; it transcends the world that is immediately experienced and is anchored somewhere beyond its horizons... It [hope] is not the conviction that something will turn out well, but the certainty that something makes sense, regardless of how it turns out (Havel 1991, pp. 181-182).

Hope is more potent than the obligations written into contracts, policies or codes of practice. It is the embodiment of humanity, to give value to and receive value from others, in reverence to our common needs and aspirations. The motivation to become the difference is drawn from deep within the self, beyond duty, by an inherent belief that the cause is virtuous enough to risk failure and flex the limits of convention — it can be radical, dissenting and disrupting. In residential child care, whatever our role, the best we can do is honour hope and the worst we can do is ignore it.

## Introduction

This article begins with an anecdotal account of a young person's introduction to residential child care involving the author. This is an illustration of the typical challenges of our work, the emotional and practical effects of these and the opportunities that can emerge from them. Drawing on similar themes, an exploration of perceptions of care follows, along with consideration of what these may necessitate in creating a culture of hope. This is supported by a reflection on the history of Care Visions Residential Services, the founding principles and how these have developed as the organisation has grown, including the implementation and application of the Sanctuary Model. These reflections lead to a discussion on caring relationships and how social pedagogical concepts have influenced our approach in developing these. An exploration of our initiative

supporting and facilitating continued relationships, between young people and staff members, proposes some suggestions about how we may improve care experience by further enriching the relational experiences of our young people.

## Stories of Care

It was a warm summer's Friday evening, the kids were happy and settled, plans were in place for the weekend and the team knew what they were doing. It had been a busy week in preparing for the journey home, a sense of satisfaction excited a mild delirium. I considered I might have a beer, this sense of completeness, a fleeting certainty is elusive in residential child care and must be celebrated. Just as I picked up my bag the telephone rang. It was my manager, who explained that a young person needed an emergency placement and I was asked if we could accommodate her. Given her situation and that we had a vacancy there was no reason to refuse, this is what we do after all, right? This pragmatism was at odds with how I felt, a knot in my stomach inflamed as I considered the implications. How would this affect the plan for the weekend? Would the kids cope with another young person moving in? What if...?

Instead of a sojourn to the local, as planned, I was hurtling up the motorway to a service station where I was to meet the young person and her social worker and take her back to the children's home. When I met Kerry<sup>1</sup> a 12-year-old girl, my preoccupations and worries about how this had affected me, my pithy resentment, evaporated. Her bewilderment and disorientation was palpable. While my plans for the evening had been usurped, she had been uprooted and her assumptions about who she was and where she belonged suddenly interrupted in a terrible moment.

It transpired that Kerry had gone to school in the morning as normal and had been visited there by her social worker who had informed her that her foster carers were no longer able to look after her. She was taken from the school to

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<sup>1</sup> For confidentiality, the name is a pseudonym and the young person was consulted on what has been written and is happy for this to be published

what had been her home to get her belongings, in bags that had been hastily packed and left inside by the front door to avoid an uncomfortable encounter. On the journey back to the home, Kerry sat side-on leaning against the door, her presence accentuated by her wide-eyed gaze, was compelling of total attention. The story of how her life unravelled ensued, an inventory of unfathomable loss, adversity, betrayal and injustice. I couldn't and didn't need to speak, all I could do was bear witness to her pain. Reflecting on the experience, there is no memory of the journey, other than a visual imprint of how the young person sat beside me and the visceral affect of her appeal for something that would make sense of her experience. I was moved, in awe of the adversity she had endured, humbled and changed. The intensity of the experience was an awakening, or least a reminder of the significance of the role those of us who work in residential child care have and why I had chosen to work in it.

There was a welcoming party waiting for Kerry when she arrived at the house. Her demeanour immediately changed. She seemed relieved and relaxed. Kerry moved to another *Care Visions* children's home, closer to where she had come from a couple of weeks later. We kept in touch initially through mutual connections and over the last few years have had occasion to meet up regularly. We reflect on that day frequently. Being able to do so seems as important as the experience itself. Her perspective on what happened is surprisingly hopeful. Despite the difficulties, she derives a sense of being cared for from the experience. Kerry talks about finding herself, through a feeling of safety and trust, almost immediately after walking into the children's home, it being entirely different to the chaos and mayhem she expected. She names this move as the beginning of her identity formation, away from the reminders and anchors of adversity. She is doing well. I am privileged to know Kerry, to have played a part in a brief yet definitive moment in her life and to still be in contact with her. This scenario is not exceptional in the world of residential child care. It perhaps exemplifies the inauspicious circumstances within which children and carers often find themselves. But it also demonstrates how through attuned, containing

interactions, hope, trust and development can arise from these intense encounters, however brief. At a human level they are extraordinary. They represent the challenges and opportunities that children and staff members negotiate and expedite as a matter of routine, encompassing the full range of human experience; sorrow, hope, tragedy and triumph.

Story telling around residential care suggests that it is necessary but unwanted. Care experience is associated with poor outcomes related to educational attainment, physical and mental health, homelessness, criminality and social lives (Cahill et al., 2016; Forrester, Goodman, Cocker, Binne & Jensch, 2009; Schofield, Larrson & Ward, 2016; Stein, 2012). These negative perceptions can blight the sector, those who need these services and those who work in them, compounding the negative affect of stigma (Stein, 2012). Those we care for can be the most disaffected and disadvantaged, having experienced multiple traumas and accumulated adversity probably more than most would experience across several lifetimes. We often meet them at a critical moment in their lives when they are at their most vulnerable. Forrester et al. (2009) argue that rather than being detrimental to wellbeing, care experience is more likely to impact positively on the life trajectories of young people.

There continues to be ambivalence about placing young people in residential care and various policy and regulatory initiatives privilege family placements over small group homes, which are now the standard forms of residential care in Scotland (Connelly and Milligan, 2012). Consequently, it continues to be the placement of last resort (Schofield et al. 2016). Young people often move into services amid crisis, with little time for them or carers to plan or prepare for their arrival. The length of time they spend in residential care has reduced in recent years and those who need these services are likely to have experienced several placement breakdowns before they arrive (McPheat, Milligan & Hunter, 2007). Despite these challenges, residential child care can provide invaluable support to the children who most need it and can benefit from the unique blend of social and individual care. Even the briefest period of stability can infinitely improve the prospects of our young people.

It would be hubristic to suggest that the care system doesn't need to improve. There are too many young people who move on from care that have had damaging experiences of being looked after. The most disaffected are those who need the highest level of support (Stein, 2005). If we consider what care experience can deliver to improve lives, what happens when it does work, we may learn what needs to be done to bring about the necessary improvements. Considering the complex lives and circumstances of the children we look after and the complexity of the system itself, residential child care is the crucible in which these converge and clash. These services play an essential role within the broader network of support and care for a relatively small but incredibly important group within society. We have a responsibility to tell the remarkable stories that speak to the value of the people who live and work in residential child care and how services make a valuable contribution to society.

### **Care Visions – early days and new approaches**

Care Visions' story began in 1998, with the opening of its first children's home in the South of Scotland. The initial idea came from two social workers who had led a community development project within the locality, working with young people, some of whom were in residential child care. Their interface with these young people, professionals and services suggested that the prevailing narrative around young people who were experiencing difficulties was that they were the problem. Characterising the young people in this way objectified them, compounded the exclusion they were experiencing and neglected their assets and agency, creating a systemic hopelessness. Through their experiences of working in the community and the relationships they had developed with young people, the community workers believed a positive alternative was possible.

The service was designed on the premise that behavioural issues were a manifestation of the difficulties young people had experienced and, as such, a communication of need. Intervention and support was focused on these unmet needs rather than on the behaviour itself. Retrospectively, this seems an obvious proposition. At the time it was radical and, if not unique, unusual.

## Developing models of care

The home was supported by a psychotherapist who used Transactional Analysis and theories related to the impact of abuse to inform the approach to care, this was inherently trauma-informed, although not labelled as such until later. The therapeutic approach was created in a family-like small group setting, through daily rituals, rhythms and activities, while maximising the potential of the relationships that developed between those who shared the space. The origin of our organisation was based on an innovative and creative outlook. When hearing the stories from the early years, the pride and optimism is tangible, the proposition being that residential care wasn't something that was endured or survived, either by young people or staff members, rather, it was enjoyed. The supposition was that the solution to the problems that necessitate our services did not need to be the focus of the approach. Instead it was on creating experiences that model positive alternatives to those from which the problems arose. The character of these experiences was crafted through understanding and active interactions to create a nurturing environment and a culture of hope.

The growth and evolution of services was initially organic, in response to the emerging and developing needs of young people living in one home. As the reputation of the organisation developed, the number of enquiries from agencies looking for this kind of care led to the development of new children's homes initially in Dumfries and Galloway then in the Central Belt of Scotland. We now have 31 residential services, spanning the length of the country from the very South to Angus in the North, and from Ayrshire to the Lothians.

As the organisation grew maintaining the ideals upon which the first service was a challenge. A model of care was needed to ensure fidelity and coherence across the whole organisation. In considering which approach to adopt it was important to find one that would maintain those upon which the organisation was founded and would enrich what already existed. We wanted something which would enhance the knowledge and skills of our staff members and their ability to support the development of our children and young people. The Sanctuary Model of trauma informed care fitted this purpose and was first introduced in 2007.

## **The Sanctuary Model**

The Sanctuary Model, developed by Sandra Bloom and her colleagues in the 1980s (Bloom, 2013), is a trauma-informed approach designed to bring about organisational change to create a therapeutic milieu within which people who have experienced trauma and adversity can heal. The model provides a methodology for creating this healing culture using a whole systems approach, encompassing the entire organisation, children, direct care staff, management, administration and leadership.

The evidence base for the model is drawn from constructivist self-development theory, burnout theory, systems theory and the valuation theory of organisational change. For a further explanation, see text box1.

### **The Theoretical Framework of the Sanctuary Model**

**Constructivist Self-Development Theory** is concerned with personality development and provides insight to the effects of trauma on social and behavioural functioning and disruptions to attachment connections. This is mobilised in the Sanctuary Model through training and in creating a community environment within which relationships develop that build young people's ability to connect with others, regulate their emotions and develop self-worth.

**Burnout Theory** suggests that emotional exhaustion reduces the emotional availability of carers to act as attachment objects and can lead to depersonalisation of clients and a reduced sense of personal accomplishment. This can diminish commitment to the mission to provide healing relationships and leading to high levels of attrition. Attention to the wellbeing of staff members within a supportive organisation is integral to the Sanctuary approach.

**Systems Theory** considers the organisation as a system, comprised from a set of sub-systems, recognising the complex relationship between individuals and groups that influence experiences and actions. The organisation and all its constituents is the focus of the intervention of the model.

**Valuation Theory of Organisational Change** seeks to elicit the personal meaning members of the organisation bring to their work in terms of thoughts, feelings values and beliefs, so as they can be renounced or reinforced in the change process. The model includes training to build skills and tools to support self-confrontation to ensure the change processes encompasses the whole organisation and everyone involved in its activities.

Adapted from Esaki, Benamati, Yanosy, Middleton, Hopson, Hummer & Bloom (2013) The Sanctuary Model: Theoretical Framework

These theories inform the Four Pillars of the Sanctuary Model which are designed to create a community of common purpose through shared knowledge, values, language and practice. For a further explanation, see text box 2.

## **The Four Pillars of the Sanctuary Model**

### **Shared Knowledge**

Knowledge is delivered through training related on the effects of trauma and stress on behaviour to facilitate a change in mindset from a negative perspective to one that considers this behaviour a result of injury. Behavioural difficulties are the result of traumatic experiences, a response to perceived threat and necessary for survival, functional within a dysfunctional environment. The implications post-trauma are chronic hyper-arousal, hypervigilance long after the threat has dissipated, pre-cursors to traumatic re-enactment when experiences trigger traumatic memories.

### **Shared Values**

The seven commitments provide a common value base for the model, in subscribing to this we are committed to nonviolence, emotional intelligence, sharing power, communicating openly, being socially responsible, learning from each other and growth and development. In applying the Sanctuary Model these commitments guide decisions and actions and provide a compass for resolving problems and dilemmas.

### **A Shared Language**

A shared accessible language is supported by the S.E.L.F. acronym, informed by core components of recovery: Safety, in ourselves and in relationships; Emotions Management, being able to recognise and regulate emotions; Loss, processing personal losses by honouring these through grief and understanding that all change invokes loss, and — Future, trying out new behaviour and developing aspirations. The model proposes that safety precedes all development and the principles described are used in routine meetings and engagement as part of tools offered.

### **Shared Practice**

The Sanctuary Model provides a toolkit to support trauma informed practice. This includes: Community Meetings to support emotional literacy, identity affirmation and to seeks help from and offer help to others; Safety plans that support healthy coping strategies when we are risk of becoming overwhelmed, Red Flag reviews, a forum for confliction resolution and restoring relationships when these may have become strained, Psychoeducation, creative engagement to support young people understand their experiences of trauma and integrate these into a coherent narrative, and, Self-Care plans as way from staff members to develop strategies to maintain their physical, psychological, health.

Adapted from:

<http://sanctuaryweb.com/TheSanctuaryModel/THESANCTUARYMODELFOURPILLARS.aspx>

When the Sanctuary Model was introduced to our residential services there was some resistance. This was motivated by loss aversion and a sense that there had been a negative judgement made about what we were already doing. The predominant approach had been based on what we perceived to be providing a normative experience of growing up for our young people. The model challenged assumptions that what we thought had worked for us as children, would not necessarily work for those we looked after in our children's homes. This was also related to concerns about applying an approach that was developed in large institutional environments to small group settings in Scotland. If we were to accept that trauma and loss were universal and surface the effects of this, then we would have to confront and accept our vulnerability and fallibility. This invoked loss related to giving up a power and the disturbance of an established sense of competence.

Trauma theory made an emphatic case for change to set aside previous assumptions about how our own behaviour may impact on the behaviour our young people. Early practice iterations of the model were clunky as we struggled to adapt our existing routines to accommodate trauma informed approaches. Community meetings were awkward as we grappled with naming emotions, perhaps because we had been culturally conditioned to ignore these and push them down. Responding to incidents through Red Flag Reviews was initially mechanistic, as we struggled to understand the theory and purpose of what we were doing. The model, stressing the importance of safety, may initially have led to the avoidance of uncomfortable, rather than unsafe, interactions. This coupled with concerns about re-traumatising children created some hesitance in setting appropriate limits and boundaries. These issues, although unhelpful, reflect the reverence and sensitivity that exists within the caring environment and are preferable to the de-humanising impact of blunt institutional care.

Implementing the Sanctuary Model was a disruptive process, the focus on training, developing practice through the toolkit and dealing with the inevitable loss that is incurred by change, interrupted the established order. The initial mechanical articulations of the approach evolved as the meaning and intent of the model deepened. Creative approaches emerged that integrated the

knowledge, skills, and values of the model and were practiced naturally, without script or instruction. Within *Care Visions* the adaptations of the Sanctuary model included community meetings taking place in the car on the way to school and Red Flag reviews were organic conversations, rather than formally arranged meetings. Reflecting on this perhaps surfaces the need to co-author our own approach to trauma-informed care and to involve the entire organisational community. The model has bequeathed us with a coherent actionable understanding of trauma and the effects of this and a shared language. Our application of the Sanctuary Model has imbued a person-centred culture in the organisation that is revealed in how we positively describe our work and the children and young people we care for.

The model has clarified the purpose of our services, in creating safe, nurturing communities within which benevolent restorative relationships can thrive, through shared experiences and mutual accountabilities. What follows is a consideration of what constitutes the kind of caring relationships that can facilitate growth and healing and what has influenced our perspective on this.

## **The Influence of Social Pedagogy**

Several of our staff members have engaged in social pedagogy training and participated in the EU mobility work-study visit to children's services in Copenhagen to learn about social pedagogy in practice. The training and mobility programme was hosted and facilitated by [Thempra](#), Social Pedagogy. The impact of this was described as transformative by those involved. Returning from Denmark they were determined to practically implement what they had learned and to continue exploring the relevance of social pedagogy in our work. The social pedagogues encountered in Copenhagen invariably described their professional identity in terms of developing a relationship with the child and *working in solidarity* with them to support their integration into society.

Solidarity may be a contentious term, given the association with political resistance and concerns about insularity and self-interest (Illingworth, 2016). Described by Schuyt (1998) as a benevolent orientation that involves the sharing of feelings, risks, responsibilities and interests, it has relevance within

the frame of caring relationships. Jennings (2018) proposes that solidarity in a caring context is based on the recognition of those we care for as moral subjects, with agency to decide and act in their own interest and the interests of the greater good. By working in solidarity with young people we stand up, with, for, and, as them, integrating rights, responsibilities and ensuring their agency and dignity. In doing so interdependencies can develop through which need emerges collaboratively creating a moral community that supports wellbeing by activating the collective potential that is contained within this. Being in solidarity with our young people from this perspective is an act of relational care.

The concept of *haltung* (Eichsteller, 2010), a German word, is without equivalence in the English language, widely used in social pedagogy training. It broadly translates as the stance, disposition or essence of a person and embraces the integration of the personal and professional from a values perspective. Our work from this perspective is an existential endeavour, pertaining to who we are, our purpose and the meaning derived from identity and intent. It is as much about much concerned with being as it is with doing, not only what is done but how this is done and requires interpretive skills (Garfat, Freeman, Gharabaghu & Fulcher, 2018).

## **Caring relationships**

We've long recognised the significance of positive relationships between young people and carers in improving outcomes for children in care. Residential child care staff are uniquely positioned to form and influence the experiences of young people through their relationships with them (Coady, 2014). While this appears to be universally understood there is less known about the character and practice manifestations of these relationships and what it is that supports positive outcomes (Cahill et al., 2016).

Healthy relationships require a nurturing environment, where safety is elicited through rhythmic activities and engagement, structure and boundaries, that form the foundations for relationship building in the space and experiences shared by carers and young people. These can be anchored in simple personalised acts within day to day interactions, such as deference to the young

person's preferences at mealtimes. They are based on the premise that attentive recognition of others is the moral imperative with which caring relationships are primarily concerned (Jennings, 2018). This warmth and genuine affection, communicated through responsive interactions can then be accompanied by a demanding parenting style that stretches development, through which young people feel a sense of being cared for, importance and mattering (Morrison, 2016; see also Hawthorn, 2020, in this volume).

The young person's history of relationships may have led to an absence of trust, and transitory existence and inconsistent relationships with professionals may hinder the development of positive connections or a sense of felt security.

Relationships are a critical medium for our young people, to re-establish trust, in themselves, in others and their wider world through relational repair. Based on mutuality and enabled within the life space through reciprocal exchanges, emotional and social. This requires self-disclosure and authenticity. Trust is also embedded in reliability and consistency of self, showing up and being present and willing to make contact, even when this involves the risk of exposure to distress. Relationships boundaries are essential as a precursor for safety and engagement, rather than a barrier to these (Fewster, 2005). If they are to be congruent and authentic these are inherently personal with the terms of engagement negotiated between the participants in the relationship, enabled and empowered by the organisation through supervision and a culture of transparency, nurturing trust.

Emotional connections (attachments) are necessary but will not alone provide the stimulus for growth and development. Li and Julian (2012) argue that these contribute to one 'active ingredient' of developmental relationships. Progressive complexity, reciprocity and the sharing of power are also essential components. These evolve as personal mastery develops and the skills to manage responsibility increases.

Compassion is an essential component of caring relationships, described in our values statement as caring through relationships based on empathy, warmth and affection that restore trust and hope in young people (Care Visions, 2017).

Tanner (2019) attests that compassion is synonymous with care giving and while containing an empathic element, attunement to the emotions of others. It is characterised by warmth and concern and a motivation to act to improve the wellbeing of the other in the in relational dyad and in compassionate communities. Tanner also notes that empathy can lead to avoidance of distressing situations for fear of being overwhelmed. Compassion as an element of caring, means we must muster the courage needed to overcome this fear to actively respond. We need to be affected to be effective, but not so much so we become overwhelmed and unable to act. Succinctly, empathy visits, while compassion acts and endures.

Personal, compassionate relationships in the care setting have the potential to repair or remediate relational trauma and can impact positively on the social, emotional, psychological and moral development of young people that can endure across the life course. They are also integral to developing resilience through facilitating support networks. These become critical when the young person moves on from their care placement in mitigating loneliness and anxiety through continued relationships with carers, (Schofield et al. 2016).

This perspective necessitates a challenge to the prevalence of the policy-driven procedural approach that has dominated practice in recent years. It also challenges the authority given to professional objectivity and the preference given to rationalism in decision making. The imperative to act compassionately can be diminished by the valorisation of objectivity in the 'delivery' of care and the prevailing construct of professionalism and the concerns about the impact on the emotional health of workers of becoming emotionally involved with those they support (Tanner, 2019). This construct of professional behaviour has developed in response to abuse inquiries. It reflects an inherent mistrust of those working in social work and social care and is focused on control and compliance, as a means of regulating the workforce rather than meeting the needs of the children we care for. Moreover, it blunts the inherent intuition or 'moral impulse' (Smith & Steckley, 2012) to care, in a meaningful sense. It has also created cultures that limit the adaptive capacity of the sector (Helm, 2011).

While Helm's perspective relates to child protection social work, in residential care, we too, may have become pre-occupied by attending to the needs of the system. Displacing our energy and attention from the needs of the young people we care for. These issues can be overcome by reframing what it means to be professional and care from a compassionate perspective by recognising and embracing the interdependencies that exist in human relationships. Notably, creating the conditions for professions to act on their compassionate impulse is likely to lead to 'compassion satisfaction' improving the emotional health and wellbeing of professionals that care, augmenting their resilience, building on capacity rather than reducing it (Tanner, 2019). We cannot create systems, legislation or policies that adequately address the complexity of the human condition or cover all the infinite individual situations that people find themselves in. What we can do is truly commit ourselves to a hopeful orientation. Hope is actionable through the development of trusting relationships.

Ideas around 'wholeness' and the use of self are not new in residential child care. There is ambivalence about the extent to which this should be enabled and how and by whom it is regulated. This can be communicated to young people in their day-to-day interactions with carers, who may fear rebuke if they are perceived to have overstepped limits of what it means to be professional (Steckley & Smith, 2012). Applying *haltung* (Eichsteller, 2010) in practice, proposes a dispositional orientation that requires reflective and reflexive interrogation of our personal and professional values. Designing experiences that foreground relationships with a person-centred orientation that informs process and practice. This suggests an alternative to rule-bound governance through procedures that can be prohibitive and based on risk aversion, by empowering carers to navigate the multiple dilemmas (Gharabaghi, 2008) inherent in developing authentic trusting relationships with young people.

## **Why Not? Continue Caring Relationships**

In 2014, Care Visions Children's Services developed a project to support continued relationships between young people moving on from care services and adults, with whom they have developed trusting relationships, while they were

being cared for in residential and foster care. This was inspired by [You Gotta Believe](#), a New York based Organisation that provides a 'moral adoption' service for young people ageing out of the youth care system.

*Why Not? Community and Connections* is now part of the *Why Not? Trust for care experienced young people*, a Scottish Charitable Incorporated Organisation. It has supported more than 60 young people to engage in continuing connections with former staff members and carers through person centred planning. Carers and young people are helped to maintain these relationships with the ongoing support of a dedicated manager and coordinators, who ensure safety and provide facilitation.

The project started in recognition of the significance of the relationships in enabling young people's wellbeing and resilience, in preparation for, and after they have moved on. Mann-Feder (2007) argues that preparing to leave care placements can agitate a renewed sense of loss caused by the anticipation of being alone. This amplifies previous attachment loss, related to family separation and can result in regressive behaviour. In preparation for moving on, focusing on continued relationships with adults with whom young people have an emotional connection is likely to reduce the potential for attachment re-mourning. Young people who have left care are also more likely to develop a coherent narrative of their identity, a key element of resilience, when they are able to review their experiences with the carers with whom they developed a trusting relationship as children (Cahill et al. 2016, Stein, 2005). Given the importance of ensuring that young people are supported to prepare emotionally before they move on and have an emotional safety net when they do. It does not seem sufficient merely to permit continued relationships. They need to be actively resourced supported, facilitated and encouraged.

As the number of young people engaged in *Why Not?* grew, gatherings were arranged so young people could share their stories and experiences and connect with the network of people involved. From these, a community of common interest developed. This has become a vibrant network of talent and creativity- a repository of social, emotional and skills capital in which everyone contributes,

and everyone benefits. There are already signs that engagement in the community is improving personal and collective resilience and that the relationships and interdependencies that have developed are becoming self-sustaining. At times this involves standing up for, with and as one another, in solidarity (Jennings, 2018).

Some of the care experienced community have been employed to review care services and in supporting other young people preparing to move on, have given feedback to professionals from the care review and board members. A playgroup has also been co-created by community members, for care experienced adults to attend with their children.

This approach to facilitating relationships offers a high level of autonomy and organic development, affording nuance and differentiation without compromising safety. Safeguarding and governance is administered through transparent processes and engagement with the young people, to support agency and discretion.

## **In conclusion**

Our work in supporting continued relationships and co-constructing a community with our care experienced young people is the most recent phase in our continual journey of practice development. This has involved interrogating our approach and being open to new ideas. What we have learned can be embedded into our practice in residential care. At *Care Visions* we have always aspired to be steadfastly 'relational' in our work. We are now reviewing our care practice through a deeply collaborative approach, in solidarity with our care experienced community, surfacing and acting on the wisdom that exist within this. As hope-keepers for our children and young people we will continue to be critical thinkers and courageous, compassionate carers.

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## About the author

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# From 'Another kind of home' to 'A different kind of family'. Re-understanding how residential child care can work

Andy Thorpe and Max Smart

## Abstract

A different kind of family may seem a strange thing to attribute to residential childcare, and yet, longevity of care and caring has been achieved in a local authority residential service in Scotland. Lothian Villa in East Lothian has historically provided nurturing supportive care that has been lauded by regulators, academics and politicians alike. In this article, two Lothian Villa managers (Max Smart and Andy Thorpe) describe the journey of supportive care and healing that goes beyond another kind of home and leads to a different kind of residence; a different kind of caring to create a different kind of family.

## Keywords

Nurturing, relational caring, connection and family

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"Would you tell me, please, which way I ought to go from here?" asked Alice.

"That depends a good deal on where you want to get to," said the Cat.

-Lewis Carroll

## **Introduction**

All journeys, however big or small, start with the first step. Our journey started in the same way. In the mid-1990s we took our first faltering steps towards creating our vision of different kind of family, within a residential setting, something that was not felt to be possible in what was considered as an institutional setting, where rotas and shifts were thought to be impediments to creating and sustaining relationships.

This article reflects on our journey, which started at a time of significant national doubt about the necessity and or relevance of residential childcare in the UK.

## **A Retrospection**

To recall these times brought back to the authors, as we wrote this article, memories of the mixture of excitement and dread that percolated that time in our history. It brings to relevance to our use of the quote from Lewis Carroll, for getting to anywhere required of us some sort of vision about where we at least wished to go.

As our box information at the start of the article suggests, Lothian Villa is a local authority residential resource. Lothian Villa is not resourced any better or worse, than residential services in other local authorities. It has similar staffing levels and encounters the same dilemmas of providing supportive care to young people in crisis. However, when we considered what we wanted in 1995, we wished to create an ecology of healing and support, something that could be transformative in the lives of all involved with the service.

We knew we wanted something better than being simply another children's home, but how we might achieve that was, at the time, nothing more than aspirational. For us, we wanted to go beyond being just another residential facility. We wanted to give life to a vision that Lothian Villa could be more than

accommodation for the so-called troubled or troublesome. We envisioned something radically different for Lothian Villa as a service. Like Lewis Carroll's Alice, where we wanted to get to was a specific place; for us, that place was one of love and deep connection and of sustained belonging for kids and staff.

We therefore envisioned a place of kindness and compassion where we could build rapport and connection; Where relationships went beyond the generic use of the word in our profession; Where we would seek to sustain these relationships over time; Where we could discover and uncover potential; where we could share power and decision-making. In short, we wished Lothian Villa to be a different kind of family for kids without the privilege of family, granted, not a traditional family, but a family nevertheless.

## **Skinner and 'Another Kind of Home'**

Our title for this article has been one chosen with care. Our evolution started shortly after the publication of the Skinner Report (1992) whose title was 'Another Kind of Home'. We feel we have expanded the concept Skinner proposed by proposing that residential care can aspire to be something far more radical; a different kind of family.

At the time and even today, our vision was a radical proposition. Residential care in the 1990s was not a profession held in high public esteem, locally or nationally; and in the eyes of many onlookers, it was not a profession at all. On the contrary, midway through the last decade of the twentieth Century, residential care was viewed with deep suspicion and in some quarters with professional and political ambivalence or indeed, contempt. We were therefore starting our journey a couple of years after the publication of Skinner, at a time of public scandal and political flux in the sector.

## **A Brief Context**

In 1992, Angus Skinner, Chief Inspector of Social Work Services for Scotland, published his seminal report 'Another Kind of Home'. Skinner's report was a strategic overview of the issues confronting residential childcare services,

coming at a time of care scandals, home closures and subsequent questions about the relevance of caring for vulnerable young people in residence at all.

However, in the concluding chapter of Skinner's report he noted:

No clear consensus has emerged about the role that residential childcare should play within new policies... [Therefore] the service has had to cope with rapid change without a clear sense of purpose, and staff, who are largely untrained, have felt that their work was not valued (p.87, 6.1).

Reflecting on Skinner's report 27 years later, we see that his contribution led to clear advances in the quality of care in residential childcare facilities across Scotland and created a momentum for a deeper understanding of what out-of-home care was, and could be, at least within the residential community. Now several decades on, the sector has certainly moved beyond the days of untrained staff. The profession has a clearer professional identity and purpose; however, questions remain in the minds of the public, about the legitimacy of the sector to this day. Therefore, whilst the Skinner report did much to help the sector, it did not quieten the concerns and suspicions about caring for other people's children out with family settings.

## **Evolution – The Vision takes shape**

In these circumstances, our goal of creating a different kind of family at times seemed like one more of a future service to be dreamed about in some care utopia, rather than one that was possible at that time to create. However, we were very much reassured, by the wisdom of writers such as Greenwald (2005), who observed that:

Parents, counsellors, teachers, coaches, direct-care workers, case managers, and others are all in a position to help a child heal (p.37).

Yet, there is a risk in writing an article like this as it may come across as self-congratulatory, as if Lothian Villa is perfect and readers should just do as we do,

and all will be all right. As authors, when we have read similar types of articles in the past we have just switched off, so we have no intention of patronising readers in that way. Whilst we recognise that all helping adults in many services have the capacity to help, we recognise that helping services in Scotland are not, and may never be, holistically joined up or seamless.

The truth is Lothian Villa is not a perfect service either and never will be. It has its quirks and flaws, but we continue to evolve and through our evolution, we have created foundations of connection and support and a care philosophy that generates deep affection enabled through interventions of kindness and compassion.

The reality is Lothian Villa has evolved in its thinking and doing care over decades. It continues to develop as a service and in many respects; this is such a significant and enabling quality: we may paint the canvas but the painting is never finished, and we have the humility to acknowledge that we are only as good as the last child we worked with.

Therefore, this may also be the appropriate time to say a little more about whom we are as authors. We give brief biographies at the bottom of article so we will not say too much here. Max and Andy are two managers at Lothian Villa, and have practiced together since 1995; Andy is the residential manager and Max is one of the assistant residential managers in the service.

We have been together since 1995, and along with other managers and staff have been evolving Lothian Villa as a service ever since. Our journey together started in 1995. We came together then and have remained along with many of our managers and present staff, developing and refining what we do and how we do it, since that time.

During our journey together, Lothian Villa has developed from unsophisticated care and control frameworks to a philosophy of care that seeks to meet needs rather than controlling behaviour. The journey in between has been one where we have through trial and error recognised that, to help and heal we need to develop positive connections with young people that can lead to deep enduring relationships of affection and support.

We have through these years together come to understand that human behaviour is complex and that problematic behaviours are usually the result of multiple influences in the young person's personal situation and in the ecology of their lives.

Our evolution has brought us from instinctual care practices about relationships as being the key to healing (and ultimately the intervention) to one where our care practice instincts, have in the intervening years, been validated by contemporary resilience science, positive psychology, trauma awareness, and neuroscience.

We now recognise and can validate the importance of humour, kindness and compassion, even love as professional values and the starting line for emotional healing, as the smallest of interventions, empathy and kindness can facilitate relational connection, emotional safety, meet growth needs and sustain relatedness.

To create an environment of safety, connection and coping we required to combine practice wisdom along with theoretical understandings, that enhanced the quality of our care and our caring techniques, to move beyond simply being another 'children's home' to generate an impetus to create something more enduring than the length of stay in our building.

These interventions and understandings have led us to think and act differently, to continue our care and support beyond placement to endeavour to create community as well as safety; ultimately, to create a pathway that leads to our 'different kind of family'. In doing so, we have challenged public perceptions about the meaning of care and caring in a residential setting and a move towards a curiosity about what causes fragmentation in human relationships and what is required to repair relational fragmentation.

As Brendtro (2006) reports what is required in our caring and teaching is 'a love that looks beneath problems in search of their causes and [ultimately] solutions', (p.18).

## Recursive Historical Merry-go-Rounds

It is an interesting observation of Kahan (1994, p. 4) that the usage of 'residential child care has waxed and waned and waxed again, depending on the fluctuations of professional and political theories and fashions [as well as] changing pressures and national resources'. As we stand on the edge a new decade of the twenty-first century, we seem to be re-encountering scepticism about residence in the same way we encountered in the last decade of the twentieth century.

It might therefore be concluded by some social commentators, therefore, that historically the debates about relevance of the sector are cyclical and like the 1990s we are re-encountering the recursive historical 'merry-go-round' of residence.

Once again, we find ourselves in times of social and political flux and a re-emergence of the wax and wane, in the relevance and effectiveness of residential care. Public Inquires about abusive regimes and historical injustices attributed to the care of children out with home settings; percolate contemporary public perceptions of residence as once again, being dangerous and harmful to children.

Whist it is clear, that the experiences of some young people in residence has been demeaning, detrimental and harmful, (and in our opinion, that legitimacy needs to be given to these voices in order to eradicate practices that are harmful in the present as well as remediating past harm). Yet, there are also many alternative narratives about life in care settings. It is also evident through these narratives, that residential experiences have not been the denigrating or harmful experiences some have endured, for others; residential care settings have been places and times of stability, of felt compassion from carers, and of belonging, enablement and empowerment in their lives.

Therefore, this reflection on our own journey comes at a time in the history of our much-embattled profession, where it would be all too easy to be pessimistic about the future of residential care. Yet, we will profess our optimism and hope

for the care of children and residence in general if we can shift the mentality about notions of 'the home' and 'the family' in the public discourse.

These restrictive terms in our opinion tend to depict the disapproving voice towards caring residentially, as 'the home' suggests something impersonal or anonymous and 'the family' as being only biological or given by blood, and something residence cannot be.

We see these things differently, in that residence can meet the needs of children and youth if it is constructed in a way; that creates bonds of love and affection is compassionate and is enabled to have continuity beyond the physical stay of young people. In this, we would wish to challenge the contemporary judgementalism about care settings and shift the direction of the merry-go-round, at least a little.

## **Different thinking and doing**

As authors, we write from a perspective of continued frontline direct practice with young people in difficulty. Within a practice context that is quite unusual. The seven managers across the service at Lothian Villa have over 30 years' experience each in direct care of troubled youth.

As managers at Lothian Villa, we write from the understanding that skilled managers and staff are required to engage hurt teens in ways that are respectful, kind and compassionate. It has taken time to assemble the right people to do such an intricate and complex job.

As people, we write from a perspective that all young people have strengths and it is our job to bring these strengths to the fore.

As care theorists/practitioners, we believe in the power of relational caring to blend the subtle colours of the painting, creating texture and substance to the connecting one life situation to the next.

These things make up a philosophy of care that have stood us in good stead for twenty-five years. We are optimists for and about our kids and optimists for a care sector with potential, again just like our kids, still to be realised.

Whilst the authors' personal and managerial childcare philosophies are aligned, our service has been developed via a subtle blend of talents and personalities that combined have created a potent ecology for nurturing care and support. The staff involved have remained committed to the service over decades, creating a continuity of care and caring for over twenty-five years.

In that time, we have evolved a philosophy of caring for kids that is trauma-informed, developmentally focused and ecology oriented. Our service has a 'big picture' about its caring practices, focused on overcoming crisis, creating relational connection and ultimately, longevity of relationship. Taken as a whole, Lothian Villa has demonstrated that residential care has a clear purpose and consequently, a rightful place in the care of vulnerable youth. Far from being residual, Lothian Villa is a placement of choice, a place for healing and a place of hope and optimism.

### **Creating Trust – Precursors to Relational Longevity**

Freeman (2015) astutely advises that: 'childhood trauma can impact the whole young person especially in the way the child thinks, feels and interacts with the world'. Distrusting other people to ensure survival disrupts normal development, inhibits curiosity and often leads young people to misinterpret the intention of others and distrust their own senses.

For many young people their care journey often starts in a place where they have no desire to connect with helping adults whom they perceive as having let them down; never mind become part of our different kind of family. Lothian Villa therefore devotes significant energies to creating emotional safety and trust. As noted by Steele and Malchiodi (2012), 'safety is not about reason and logic but about how the child experiences us as helping professionals... [how we] present ourselves, our mannerisms, physical features, body language and voice tones', (p.91).

We would assert that people are key to all transformation and relationships involving kindness and compassion are the starting points for all healing interventions. White-McMahon (2016), reports astutely when she suggests that

'theories don't change people; people change people', (p.5). However, before relationship comes connection, and connection starts with small but significant micro-interactions.

Saying hello, paying attention to how a person settles at night, recognising how a young person feels comfort, even as miniscule to how a person takes their tea or likes being wakened in the morning, have importance. These small things allow foundation stones to be laid, that help young people to feel they matter and create optimism in the youth they are important and significant and that life can get better.

It is now well evidenced that quality residential care settings should be concerned about the minutiae of everyday living for restoration of personal value as these types of practices sow the seeds of potential trust the harvest of which are the commencement of the new hope that can make a real difference in helping and healing. Indeed, as noted by Brendtro (2006), a growing body of evidence suggests that: 'the ability to build a helping or therapeutic alliance strongly affects educational and treatment outcomes' (p. 142).

Abilities to convey warmth and empathy, to make a young person feel comfortable, to project enthusiasm and have abilities to see both the simplicity and complexity of situations and still respond with care and calm, are essential tools for staff to help young people give and receive trust. Relational interventions like these recognise the power of kindness, compassion — what Brendtro (2009) refers to as true caring.

As reinforced by Smith (2013): 'relationships between carers and young people are the primary means through which opportunities for healing, development and flourishing, are provided' (p. 42).

## **Creating Deep Belonging**

How do we create sustained and supportive belonging? This question is not just one for this article; it is one for society in general. Our instinct informed us that if we were to help young people to resist gangs, avoid drink, drugs or

exploitation, we needed to claim young people in a more powerful, deep and meaningful ways, than those whom were willing to exploit them in our society.

For us, deep belonging was something to do with significance, love and mattering deeply to others. It was something beyond just the tasks of the job and fundamentally well beyond what residential staff are paid to do. When our young people were asked their opinions about what mattered to them; they consistently advised us, that little things created personal significance.

What really mattered to them was when staff thought about them when they were not on shift; when staff were willing to see kids beyond being their keyworker, knowing them deeply, knowing who they were as people, beyond their behaviour. Then, and only then, when staff had passed the 'trust trial stage', could connection and trust evolve. This was a knowing beyond task and shift, something beyond the job, something profound, existential even. The things that mattered to our young people seemed very small but were the things that mattered most.

These small actions created trust from initial mistrust. These actions created feelings in our young people that they had significance and were worthy. These actions beyond pay had such enormous value to our young people that they became the basis for what followed afterwards, a real and profound sense of belonging and a clear sense of relatedness. Relatedness is a profound step in creating family.

Relatedness allows staff to relate to the young people and for them to relate with staff. Relatedness facilitates wider understanding of other people; understanding of perspectives, personal logic and motivation and facilitates the possibilities of working towards common goals.

## **The Small but Mighty**

To engage in these small but invaluable actions the whole team needed to know that from the top down and the bottom up these deeds would be given a special value, and with these acts daily, so grew the mechanisms that created meaningful belonging. Behind the actions came the validation, in resilience

science, we came to understand that inner competence came with significance, that you were important and mattered to others, which likewise created a value in self through processes of constant support and encouragement.

In ecological psychology, we began to see the importance of Bronfenbrenner's (1979) notion that all children need at least one adult who is irrationally crazy about them for them to grow well. Within neuroscience, we saw the relevance of Bessel van der Kolk's (2005) notion that 'being able to feel safe with other people is probably the single most important aspect of mental health'.

Within positive psychology, we began to recognise the importance of hope, as people are the keys to transformation from hopelessness, and that staff needed to instil hope for and in young people if they were to belong in better ways. As noted by White-McMahon and Baker (2016) 'we need hope if we want to be motivated to work for change. When we are hopeful, we look for strengths instead of weakness or deficit and build on them' (p. 8). Thus, we began to turn the ordinary into the extraordinary, by giving a commitment that was beyond tenure of care.

That commitment was that 'you never leave the Villa' and that we would remain in connected and supported caring beyond the physical care of the service. That we would have connection with our young people over time for as long as they need us, in a community of belonging that had love and care at its heart. As noted by Nadjiwan (2010, p. 1): '[whilst] we are broken within the context of relationships; and we are [also] healed within the scope of relationships'.

## **Time, hope, love and laughter**

Our different kind of family laughs often. It laughs with other, and not at other. It laughs at the absurdity of life, not to trivialise pain but to contextualise that pain often ends as we hold onto hope. In our experience laughter, joy and fun are basic human needs; just as food and shelter were for Maslow (1954), we need these states to survive and thrive in life. Residential life, far from being one of perpetual conflict and disharmony, can often be places of humour and levity.

Cheery dispositions of staff encourage the abilities of all to see the lighter sides of life.

Adults willing to see their own contradictions and able to remedy them through humour and not power demonstrates to young people that all humans are fallible, and when we get things wrong we should own them, apologise for them and learn from them. As noted by Digney (2008):

it is useful to remember that young people often have a great sense of humour and tapping into this can lead to engagement with youth, which in turn may facilitate us in the process of connecting with them... humour and laughter can foster a positive and hopeful attitude.

The use of humour is also anecdotally at least something the writers have encountered in innovative and successful residential programmes throughout the world. Humour, like compassion, hope, optimism and indeed love seem to be part of the language and actions of residences that heal and care in holistic ways. 'Laughter is God's medicine; the most beautiful therapy God ever gave humanity' (Anon).

As noted by Digney and Smart (2013): 'It is of course true that many problems occur with love at the root, (a lack of love, a distorted love, chaotic love, unrequited love) with a solution to these being the most human of conditions also involving love (loving relationships, trust, belonging, connectedness). Whilst in the past helping adults caring for other people's children may have shied away from answering these questions because of perceived inappropriateness carers now often have genuine bonds of affection and love for young people.'

## **Joining the dots**

When young people enter our care, they have often experienced adversity, past or present hurt and loss. One of the biggest losses is that of family. Families, however, are often thought of as having primacy, in promoting health, providing support and safety that enables growth. To have 'family' is therefore, to have privilege. However, when young people are in positions where this privilege is

not available, we need to find ways to recreate or reimburse what has been absent or taken away from these youngsters.

Lothian Villa endeavours to provide a substitute sense of family, different certainly from traditional western notions of biological kinship. Yet, kinship in its wider sense in human evolution terms at least was never as simple as biological relationships. As noted by Brendtro (1998):

Kinship in tribal settings was not strictly a matter of biological relationships, but rather a learned way of viewing those who shared a community of residence. The ultimate test of kinship was behaviour, not blood: you belonged if you acted like you belonged, (p.46).

Lothian Villa has therefore tried to provide a form of family privilege to those that have been denied it. Ours is a Lothian Villa family community, where support and help is always available, whether you are in placement or have left our physical care many years ago.

In practice that means continued involvement of our former young people in the daily life of the Lothian Villa houses, celebrating birthdays and anniversaries with former residents, sustaining aftercare supports, sustaining relationships, supporting a pioneering closed aftercare Facebook page online for all ex-residents.

To that end should our former residents need support, practical or otherwise, we will be available to support. Should the electricity run out for a family member, we will ensure it is put back on. Should there be no food in a cupboard, we will ensure that our family member has food. Should they need to talk or merely have company then support will be available.

Thus, the privilege of a family is re-provided to our young people. It is supported and encouraged as an everyday part of service culture in the everyday practices of the service, both physically and emotionally; giving substance to the message that, 'you never leave the Villa'. We have therefore endeavoured to live our

aspiration, to continue to be there as traditional family is there for ordinary kids at home.

## **Our ordinary, extraordinary family**

Being reared by responsive and caring adults is essential to good outcomes with children. We recognise that many modern families are under pressure, however, particularly when they face the pressures of poverty or prejudice, criminality and other social injustices. These things significantly influence traditional parenting and strain abilities of families to maintain their cohesion. Lothian Villa recognises these strains on parenting and seeks partnership with young people and their families to identify and fill developmental gaps and meet a youth's growth needs.

To us, claiming the young person requires the claiming of the family. Lothian Villa may only be a twelve bedded, local authority, residential childcare service but it has now, built a reputation as being an innovative and different to simply being another kind of home. It continues to aspire to high standards and expectations of its self by meeting needs rather than reacting to problematic behaviours.

As a consequence, Lothian Villa has a high ratio of staff retention and this continuity has allowed the facilitation of a different form of sustained caring, leading to the creation of our 'different kind of family'. Our way of thinking and doing care seems simple, but like many other things in life that have the appearance of simplicity, belies, significant complexity.

Our different kind of family has certainly taken time to build and now encompasses several generations of kids who remain involved with the service. Former residents' photographs remain on the walls and their presence remains in the rhythms and routines of the houses. It has involved the efforts of many staff willing to dedicate their careers to its creation, external management willing to let us 'paint the canvas' in the image of our caring philosophy and a willingness to go beyond the stated remit of the service to produce something special.

## A flip of the coin

Lothian Villa has required of itself the willingness to take on a family role, to care for all — staff, young people and former young people — alike. To us nurturing growth in kids and staff were other sides of the same coin. If we wanted kids to belong, staff needed to belong, if we were to enable competence in kids, we had to surround them with skilled and competent staff.

If we were to meet the needs of young people's autonomy, we needed to equip staff with the skills of autonomy and responsibility. If we were to nurture altruistic behaviours in kids then kindness and generosity would be required validation as solid interventions by staff with kids and each other. We have sought throughout our journey to combine our values and aspirations in a meaningful way, and these are used to measure our success, or for that matter when we fall short.

We have attempted to go beyond being another kind of home and moved to understand that to have residential childcare understood and valued in the twenty-first century it must move beyond being just another home that it was in the twentieth century. The contextual shift for our age is in our opinion, one in which residential caring will need to focus on how it can create family and community and as a profession we must aspire to provide care and caring beyond tenure and therefore challenge what has been traditional residential caring.

To refocus we must use relational caring practices, within and out with residence to help and heal. We must be able to validate what we do and how we do the things we do as we know that building relationships with betrayed, hurt, demoralised children can often be a long, slow, laborious task, (Fox, 2015), that goes beyond tenure of stay in whatever Lothian Villa house. Relational caring practices therefore, need to be intentional; a way of being, thinking and doing that joins the dots of caring in different ways than the past.

Along the way, we recognised early in this process that we could not use behaviour modification as treatment to deal with hurt, emotional pain and trauma. Using the work of Lorraine Fox (2015) we made sense of the proposition

that 'kids get their hearts and minds broken from faulty relationships [and] programmes built around anything other than curative relationships [would ultimately] fail'.

## **So where are we now?**

From our perspective, that is hard to say. Our journey continues. However, we think it is always helpful to think about what we have learned along the way.

These are some of our conclusions:

- We do not help and heal with punitive responses to emotional pain;
- When we understand what is happening for a young person, we can respond in a way that meets their needs rather than reacting to the behaviour that is being displayed;
- That kindness is therapeutic and purposeful, and adults who are empathetic and responsive attend to needs of children better;
- That it really does take a village to raise a child, family and community is fundamental to good outcomes for young people;
- That hope and optimism generate hope and optimism about better outcomes.

## **Back to the future**

As we started this article, so shall we end with Angus Skinner. Skinner's aspiration in 1992 was to clarify the role, purpose and relevance of residential childcare at that time. History shows that many of his observations still have relevance today. Our notion of a different kind of family is in our opinion relevant to contemporary residence and if explored may have relevance for others just as it has had for the Lothian Villa family.

What has become evident in our own journey is that attachment, belonging and a need for family are essential for young people and if they can be provided by, strong claiming by helping adults in quality residential childcare, then it is possible to create a different kind of family along the way.

What might be needed at a time of re-evaluation about the relevance of residence at this point in our history is a renewed context of our caring. That renewed context widens the scope for our caring, to rebuild notions of integrated supportive community for youngsters in care, who have at times seemed written-off or seen as disposable by our society.

In summary, it gladdened the hearts of both authors in a recent Facebook post by one of our former residents, for her to express her gratitude to Lothian Villa as the family that she had lacked in the past. She noted that what helped her heal, what helped her take tentative steps into the adult world, was the notion that she was not alone. She was loved, belonged and felt she could cope because she had 'the Villa' family at her back.

During a conversation with another ex-resident, a young mother who visits weekly, the issue of parenting came up. She described how her methods of child raising were very different to those she experienced herself as a child. She said that her parenting skills were a reflection of what she had learned over her four years in our care. She explained that keeping calm, not raising your voice but remaining solid, showing love and caring enough 'not to let me being out of control' were demonstrated on a daily basis: 'You always talk about us never leaving the Villa but actually the Villa never leaves us...'

These posts, amongst many others reflect the courage and support of our youngsters and staff to think and act differently.

Maya Angelou profoundly wrote 'history despite its wrenching pain, cannot be un-lived, but if faced with courage, need not be lived again'. Our different kind of family helps hold that pain, and with kindness, love and compassion supports kids and adults to move beyond that pain to live satisfying, caring and interconnected lives. We hope our journey can help others who may wish to do the same.

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## About the author

Max Smart is an Assistant Residential Manager at Lothian Villa in East Lothian. He has worked both in generic Field Social Work practice, and residential management. Max has a master's degree from University of Strathclyde in Advanced Residential Child Care and a Diploma in Social Work. Max remains committed to practice residentially and over the years has become a Trainer in various trauma-focused training programmes relevant to caring for young people in deep pervasive emotional pain. He continues to write, practice and train Child and Youth Care staff groups both nationally and internationally.

Andy Thorpe is the Residential Manager of Lothian Villa, East Lothian Council's residential care service. He is a Londoner and started his career in social work at the age of 17. He worked and managed in residential care until he gained his professional qualification in 1991. He transferred into fieldwork management before moving North and back to residential care to become Residential Manager of Lothian Villa in 1995. In the past 24 years Andy has been committed to raising the professional quality and profile of residential care in Scotland whilst remaining close to his first love of working with, and alongside, young people.

Lothian Villa is a Local Authority residential childcare service in East Lothian. It exists over two residential houses situated in Musselburgh and Tranent and has a satellite support flat in Musselburgh. It has capacity for the residential

provision of 12 young people. Lothian Villa originally opened in 1990 just prior to the disaggregation of Lothian Regional Council and the formation of East Lothian Council. It's true evolution as a service however began in 1995 and as this article will outline has transformed into a pioneering resource that challenges preconceptions of how young people can be cared for and about in a residential lifespan.

# The 17<sup>th</sup> Kilbrandon Lecture: Children Deprived Of Liberty: An International Perspective

Manfred Nowak

## **Keywords**

Kilbrandon Lecture, UNCRC, children deprived of liberty, children's human rights, violence towards children

## **Significance, history and challenges of the Global Study**

I am very honoured to deliver the 17<sup>th</sup> Kilbrandon Lecture in paying tribute to the achievements of Lord Kilbrandon and the Scottish Children's Hearing System today in this beautiful lecture hall. My lecture will deal with one of the most important human rights of children, their right to personal liberty. Since children are in their formative years, they need freedom to develop their talents, skills and their personality. That is the main reason why Article 37(b) of the UN Convention on the Rights of the Child (CRC) established for the right to personal liberty a much higher standard than for adults. While adults may be arrested and detained for various reasons under the sole condition that such deprivation of liberty is in conformity with domestic law and non-arbitrary, the CRC adds that the arrest and detention of children shall be used only as a measure of last resort and for the shortest appropriate period of time. This means that children shall only be detained in truly exceptional circumstances, when non-custodial solutions are definitely not appropriate.

In contrast with these high legal standards, which have been accepted as legally binding by all States of the world with the only exception of the United States, the UN Global Study on Children Deprived of Liberty (Nowak, 2019), hereinafter referred to as the 'Global Study', found that more than seven million children are currently deprived of liberty in various situations. Deprivation of liberty is one of the most severe and most overlooked violations of children's human rights. It exposes children to various forms of physical, mental and sexual violence, seriously hampers their right to develop their personality and their emotional relationship with others, and leaves a deep mark in their lives and in society as a whole. Deprivation of liberty of children is a form of structural violence in violation of Goal 16.2 of the Sustainable Development Goals (SDGs)<sup>2</sup> and in fact deprives children of their childhood.

The Global Study on Children Deprived of Liberty has been preceded by two earlier UN global studies related to the rights of children. Graca Machel (1996)

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<sup>2</sup> UNGA Resolution 70/1 'Transforming our world: the 2030 Agenda for Sustainable Development', UN Doc A/RES/70/1 of 21 October 2015.

published a UN Report on the Impact of Armed Conflict on Children, which led to the appointment of a Special Representative of the Secretary-General on Children in Armed Conflict. This Global Study and its related follow-up mechanism had a profound impact on the global awareness about the fate of child soldiers and prompted the General Assembly, the Security Council and other UN bodies to take a variety of measures aimed at reducing the phenomenon of child soldiers and at strengthening the rights of children recruited into the armed forces. These measures had a considerable impact on the lives of millions of children around the globe.

Paulo Sérgio Pinheiro (2006) published the UN Study on Violence against Children, which led to the appointment of a Special Representative of the Secretary-General on Violence against Children. This Global Study dealt with the suffering of children exposed to physical, mental and sexual violence in the family, in educational settings, in the streets and the wider community, in prisons and similar situations. It concluded that violence is most severe when children are deprived of liberty in prisons, police custody, educational and other closed institutions. The Pinheiro Study and its follow-up mechanism raised the global awareness that violence against children, in whatever setting and for whatever reason, is never in the best interest of the child and can never be justified. As a consequence, many States adopted special laws that abolish corporal punishment of children and prohibit violence against children in every situation, including in the family.

Shortly after the publication of the Global Study on Violence against Children, Non-Governmental Organisation (NGOs) started to campaign for another Global Study on Children Deprived of Liberty, which was also considered as a follow-up to the Pinheiro Study. In May 2014, the Committee on the Rights of the Child (CRC-Committee) sent a formal letter to the UN Secretary-General supporting this initiative, and in December 2014, the UN General Assembly (GA) invited the Secretary-General to commission an in-depth Global Study on Children Deprived

of Liberty.<sup>3</sup> In 2015, a UN Inter-Agency Task Force, composed of the most relevant UN agencies and offices, was established under the chair of the UN Special Representative on Violence against Children, Marta Santos Pais, which developed the terms of reference and a budget for the Global Study and which selected an Independent Expert to lead this complex process. Since the GA Resolution, unfortunately, had decided that this Global Study needed to be funded entirely through voluntary contributions, the UN Deputy Secretary-General, Jan Eliasson, launched in September 2016 an official funding appeal to all UN member States to raise the roughly 4.7 million USD foreseen in the budget. This amount included the funding of a professional secretariat in the Office of the UN High Commissioner for Human Rights (OHCHR) in Geneva. In October 2016, I was officially selected as Independent Expert leading the Global Study for a period of two years when the Study was expected to be presented to the GA.<sup>4</sup>

When I was appointed, Switzerland was the only State that had made a financial contribution to the OHCHR for the Global Study. With these funds, one professional officer could be financed in the OHCHR, and I travelled to Geneva, New York and other cities to inform States and civil society about the aims and financial needs of the Global Study. In March, I hosted a first high-level expert meeting at the headquarters of the Global Campus of Human Rights in Venice,<sup>5</sup> at which we finalised a questionnaire to be sent to all UN member States, UN agencies, National Human Rights Institutions (NHRIs), NGOs and other stakeholders. Shortly thereafter, I was informed by the OHCHR that the funds so far provided were no longer sufficient to translate and distribute the questionnaire to member States. After consultations with civil society and with

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<sup>3</sup> UNGA Res. 69/157 of 18 December 2014, § 52(d), which decided to invite the Secretary-General to commission an in-depth global study on children deprived of liberty, funded through voluntary contributions and conducted in close cooperation with relevant UN agencies and offices, and in consultation with relevant stakeholders, including States, civil society, academia and children.

<sup>4</sup> UNGA Res. 71/177 of 19 December 2016, § 88.

<sup>5</sup> At that time, the Global Campus of Human Rights was still called European Inter-University Centre for Human Rights and Democratisation (EIUC). The name was officially changed in February 2019.

the two academic institutions I had the strongest links with, namely the Ludwig Boltzmann Institute of Human Rights in Vienna and the Global Campus of Human Rights in Venice, I decided to start an emergency fundraising campaign to save the Global Study. Until the end of 2017, we managed to raise a total of one-fifth of the original budget, roughly 1 million USD from a small number of States (Austria, Germany, Liechtenstein, Malta, Qatar) and other donors, such as the European Union, UNICEF and a private foundation. This enabled us to continue the work on the Global Study, albeit with extremely limited financial resources. We had to relocate the secretariat and co-ordination of the Global Study from the OHCHR in Geneva to the Boltzmann Institute in Vienna and had to rely to a considerable extent on *pro bono* contributions from a variety of individuals from civil society and academia. Without the active support and voluntary work of an NGO Panel comprised of 170 NGOs, led by Defence for Children International (DCI) and Human Rights Watch (HRW), an Advisory Board of 22 highly renowned experts under the chair of Ann Skelton from the University of Pretoria, and many other academics and researchers from the Global Campus of Human Rights and other academic institutions, we would not have been able to prepare the Global Study.<sup>6</sup> Finally, in spring 2019, we signed a partnership agreement between the Global Campus of Human Rights (GC) and the Right Livelihood Foundation (RLF), which greatly facilitated the finalisation of the Global Study (editing, infographics, statistics, lay-out etc.) and its dissemination at various launch events. In fact, the RLF<sup>7</sup> and another private foundation, which prefers not to be named, jointly provided more funds to the Global Study than all States and inter-governmental organisations together.

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<sup>6</sup> I wish to express, once again, my most profound gratitude to my two closest collaborators at the Ludwig Boltzmann Institute of Human Rights in Vienna, Georges Younes and Manu Krishan, for their untiring support throughout the preparation and dissemination of the Global Study. The Acknowledgment Section of the Global Study (pp. X to XXIV) contains the names of all individuals to whom I am indebted for their valuable and usually *pro bono* contributions.

<sup>7</sup> I also wish to express my sincere gratitude to Ursula Schulz-Dornburg, who provides the funds, and Ole von Uexküll, General Secretary of the RLF, for their invaluable support.

I explain the financial aspects of the Global Study in such detail, as it illustrates the difficult situation of the United Nations at a time when many Governments are imposing austerity measures on international organisations, question the advantages of multilateralism in general, and attack human rights! Without the active support of civil society, academia and private foundations, many activities of the United Nations would no longer be feasible!

In view of the funds which I had raised for the continuation of the Study process, the UN General Assembly extended my mandate in December 2017 for another year and requested me to present the Global Study in autumn 2019.<sup>8</sup> In April 2018, we organised another expert meeting in Vienna, which inaugurated the Advisory Board of experts, established 10 research groups consisting of academia, UN agencies and NGOs, and finally started the substantive work on the Study. With the assistance of a small number of States (the 'Friends' of the Global Study), NGOs, regional organisations, academia and some UN agencies, we organised in 2018 a number of regional, national and thematic consultations in Bangkok, Paris, Addis Ababa, Pretoria, Belgrade, New York, Montevideo, Tunis and Montego Bay. As much as possible, we also included children in our consultations and conducted interviews with 274 children in 22 countries. In October 2018, I provided the UN General Assembly in New York with a progress report, and in March 2019, we organised a final expert meeting in Venice, where we finalised the substantive chapters. In July 2019, we prepared a short summary report (23 pages) to the General Assembly, which I finally presented in October in New York.<sup>9</sup> The online and printed version of the fairly comprehensive Global Study (756 pages) was then finalized in November 2019 and presented to the United Nations in Geneva in the context of the celebrations on the 30<sup>th</sup> anniversary of the CRC.

With the generous financial support of the RLF, we also started a process of disseminating the Global Study worldwide and initiating a follow-up process aimed at the implementation of its recommendations by States and UN agencies.

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<sup>8</sup> UNGA Res. 72/245 of 24 December 2017, § 37.

<sup>9</sup> UN Doc. A/74/136 of 11 July 2019.

For this purpose, we organised bigger launch events in New York (October) and Geneva (November) as well as regional and national launch and dissemination events in Sydney (October), Tokyo (November), Vienna (November) and Pretoria (December). Despite all these efforts by me and my teams in Vienna and Venice, the General Assembly only agreed on a very weak wording in its annual resolution on children's rights, which takes note of the Global Study without, however, providing for any follow-up.<sup>10</sup> Nevertheless, we continue to plan further launches and dissemination events in 2020 in Brussels (February), Bangkok (February), Bern (March), Strasbourg (March), Rabat (April), Montevideo and Buenos Aires (May), Kathmandu and Nairobi, inspired by the hope that the United Nations and its member States would at a certain time realise the potential of the Global Study and the need for a proper follow-up.

### **Scope, objectives and contents of the Global Study**

The main objectives of the Global Study on Children Deprived of Liberty were to assess the magnitude of this phenomenon, including the total number of children deprived of liberty (disaggregated by age and gender), as well as the reasons, the root causes, the types and length of deprivation of liberty, and the conditions in places of detention. The General Assembly also requested to document good practices of States who managed to reduce the number of children deprived of liberty as well as the views and experiences of children in detention. Like earlier studies, this Global Study also aims at raising awareness and promoting a change in stigmatising attitudes and behaviour towards children at risk of arrest or detention as well as children who are deprived of liberty. Finally, it should provide recommendations for law, policy and practice to safeguard the rights of children concerned, prevent the detention of children and significantly reduce the number of children deprived of liberty through effective non-custodial solutions guided by the best interests of the child. The ultimate aim of the Global Study was not so much to document conditions of detention with the aim of improving such conditions, but to address the root causes with the aim of

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<sup>10</sup> UNGA Res. 74/121 of 18 December 2019. See UNDOC A/74/395 of 27 November 2019, pages 9, 14, 19.

significantly reducing the number of children deprived of liberty and preventing their arrest and detention.

From a legal point of view, the terms 'arrest' and 'detention' cover all forms of deprivation of liberty, whether in the context of the administration of justice or in other contexts, such as migration-related detention or deprivation of liberty in institutions.<sup>11</sup> The term 'arrest' refers to the act of depriving personal liberty and generally covers the period up to the point where the person is brought before the competent authority. The term 'detention' refers to the state of deprivation of liberty, regardless of whether this follows from an arrest (police custody, pre-trial detention), a conviction (imprisonment), kidnapping or some other act. The term 'deprivation of liberty' means the forceful confinement of a person to a certain, narrowly bounded location (a room, house or bigger prison complex) which he or she cannot leave at will. It needs to be distinguished from restrictions of freedom of movement by legally requiring or forcing a person not to leave a certain larger area, such as a city, district, island or country. In defining the scope of deprivation of liberty, we applied the legal definition in Article 11(b) of the 1991 Havana Rules<sup>12</sup> and in Article 4 of the Optional Protocol to the UN Convention against Torture of 2002. Both provisions require that deprivation of liberty is the result of an order given by a public authority, or at least at its instigation or with its consent or acquiescence. This means that purely private forms of deprivation of liberty, including in the family, by traffickers or similar perpetrators of organised crime, are outside the scope of the Global Study. On the other hand, the placement of children in private prisons or institutions is covered by the Global Study, as this is done at the instigation of a public authority or at least with its consent or acquiescence when licensing such places of detention.

From the outset, it was decided that the Global Study should cover the following six situations:

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<sup>11</sup> See Global Study (note 1), 58 ff. and Manfred Nowak (2005, p. 160).

<sup>12</sup> UNGA, United Nations Rules for the Protection of Juveniles Deprived of their Liberty, GA Res. 45/113 of 2 April 1991.

- Children deprived of liberty within the administration of justice
- Children living in prisons with their primary caregivers, usually mothers
- Children deprived of liberty for migration-related reasons
- Children deprived of liberty in institutions
- Children deprived of liberty in the context of armed conflict
- Children deprived of liberty on national security grounds.

For each of these situations we established specific research groups. During the process of preparing the Global Study, we also set up research groups for the following four cross-cutting themes with the aim of contextualising children's deprivation of liberty:

- Views and perspectives of children deprived of liberty
- Impacts on health of children deprived of liberty
- Children with disabilities deprived of liberty
- Gender dimension.

For all these topics, we needed to collect reliable empirical data from a variety of sources.<sup>13</sup> Most importantly, we designed and distributed a detailed questionnaire in all UN languages to all UN member States, National Human Rights Institutions (NHRIs), National Preventive Mechanisms (NPMs), ombudspersons, UN agencies as well as NGOs. There were 118 replies in relation to 92 countries in various languages covering quantitative as well as qualitative areas. With respect to quantitative data, we requested annual data on the number of children deprived of liberty in the six situations, disaggregated by age and gender, for the last 10 years as well as snapshot data on the number of children deprived of liberty at one specific date, namely 26 June 2018. While the responses to our questionnaire constitute the core of data stored in our database, these responses only covered less than half of UN member States and

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<sup>13</sup> On the study process and research methodology see Global Study (note 1), 14 ff.; on the methods of data collection and analysis see Global Study (note 1), 32 ff.

were often incomplete. We, therefore, needed to supplement these original data by a multitude of other reliable data from official government statistics, UN documents and statistics, States' reports to the CRC Committee, regional, national and thematic consultations, commissioned studies as well as extraction of relevant data from peer-reviewed literature and other desk research. The collection, storage and analysis of all these data allow scientifically sound statistical estimates for the total number of children deprived of liberty in the different situations covered by the Global Study. On the other hand, I must stress that this data is far from complete, that our findings and conclusions are based on very conservative estimates and extrapolations, and that the figures presented in the Global Study shall, therefore, be treated as minimum estimates. Much more needs to be done by the United Nations and its member States as a follow-up to the Global Study to compile relevant data on an annual basis (ideally: snapshot data) in order to allow for a scientific analysis in measuring progress in the reduction of the number of children deprived of liberty.

## **Findings and conclusions of the Global Study**

### **Magnitude of the phenomenon of children deprived of liberty**

Our hope to compile reliable snapshot data on the total number of children deprived of liberty at a certain date only materialised with respect to a global (and highly conservative) estimate of the total number of children deprived of liberty in prisons and pre-trial detention centres, namely between 160,000 and 250,000. We, therefore, had to rely on annual statistics. In addition, we had to distinguish between *de jure* and *de facto* deprivation of liberty. According to the legal definition of deprivation of liberty outlined above, only children detained by virtue of a court order or a decision by an administrative authority are covered by our data analysis. For the administration of justice, the annual (highly conservative) figure of children deprived of liberty in prisons and pre-trial detention facilities has been estimated at 410,000. However, this figure does not include an estimated number of one million children who are annually arrested

by the police and kept in police custody, usually only for a short period of time until the competent authority (prosecutors, judges) decides to place these children in pre-trial detention or to release them. Nevertheless, these children are deprived of liberty at least *de facto* and are at risk of all forms of violence, ill treatment and traumatising experiences.

Even more difficult is to estimate the total number of children deprived of liberty in a broad range of institutions. When we distributed the questionnaire to member States, we explained that the term 'institutions' refers to: 'all public or private settings outside the justice system or the penitentiary administration, where children can be deprived of liberty for their own protection, for reasons of their education, health or disability, drug or alcohol abuse, poverty, for being separated from their parents, for being orphans, for living in street situations, for having been trafficked or abused, or for similar reasons – by action of the state (either directly or through licensing or contracting of non-state actors) – where the state has assumed or accepted responsibility for the care of the child.'<sup>14</sup> If children are separated from their parents by a court order and placed in a closed institution for their protection, care and education, these children are *de jure* deprived of liberty. The same holds true if governmental authorities place children with disabilities or children with drug or alcohol problems in closed institutions for children with disabilities or in closed drug and alcohol rehabilitation centres. This is, however, not the case if parents of children with disabilities, learning difficulties or behavioural problems voluntarily place their children in public or private 'children homes'. These children are not legally deprived of liberty, but they also cannot simply leave these institutions of their own free will. They are thus *de facto* deprived of liberty. According to the Human Rights Committee: 'the placement of a child in institutional care amounts to deprivation of liberty within the meaning of Article 9' of the International Covenant on Civil and Political Rights.'<sup>15</sup> Applying this strict standard means in

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<sup>14</sup> See Global Study (note1), 504, note 8, with further references.

<sup>15</sup> UN Human Rights Committee, General Comment No. 35 of 16 December 2014, UN Doc. CCPR/C/GC/35, § 62.

fact that 5.4 million children are deprived of liberty per year in various types of institutions worldwide,<sup>16</sup> whereas the total number of children *de jure* deprived of liberty in institutions was estimated to only amount to roughly 670,000 children. There is thus a significant gap between *de jure* and *de facto* deprivation of liberty of children in institutions! However, for the children concerned, it does not make a big difference whether they are deprived of liberty *de jure* or *de facto*, as they suffer conditions that are often characterised by strict discipline, lack of love, violence, sexual abuse and neglect. Of course, there are significant differences between large closed institutions and more open facilities, but our research clearly shows that placing children in facilities that fulfil the characteristics of institutions as defined in the Global Study, is inherently harmful to them. Although not every deprivation of liberty of children in institutions must necessarily amount to a violation of their right to personal liberty under Article 37(b) of the CRC, the Global Study in this respect fully endorses the global call for de-institutionalisation and advocates non-custodial solutions, such as keeping children as far as possible within their own families, or placing them in foster families, small group homes or similar family type settings.<sup>17</sup>

By also including children *de facto* deprived of liberty in our statistical estimates, the Global Study arrived at the conclusion that more than seven million children are currently deprived of liberty worldwide per year. According to the different situations of deprivation of liberty, the total number of children is as follows:

- 5.4 million children are deprived of liberty in institutions
- 1,410,000 children are deprived of liberty in the administration of justice
- 330,000 children are deprived of liberty for migration-related reasons
- 35,000 children are deprived of liberty in the context of armed conflict

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<sup>16</sup> See Global Study (note 1), 502.

<sup>17</sup> See also the UN Guidelines for the Alternative Care of Children, UNGA Res. 64/142 of 18 December 2009.

- 19,000 children are living with their primary caregivers, usually mothers, in prison
- 1,500 children are deprived of liberty on national security grounds.

## Institutions

As was explained above, the vast majority of children deprived of liberty live in institutions of all kinds which are characterised by a common 'institutional culture': children are isolated from the broader community, are compelled to live together, and do not have sufficient control over their lives and decisions which affect them. The requirements of institutions tend to take precedence over the children's individual needs, lead to fixed routines and are enforced by strict discipline, often amounting to solitary confinement, physical restraints and corporal punishment. In general, institutions can be characterised by de-personalisation, lack of individual care and love, instability of caregiver relationships and lack of caregiver responsiveness. As many recent inquiries into abuse of children show, institutions are often characterised by a high level of violence, sexual abuse and neglect, which amounts to inhuman or degrading treatment in violation of international law. Although much has been achieved in recent years by means of de-institutionalisation, for example, in the former Communist countries in Central and Eastern Europe and Central Asia, much more remains to be done to ensure that all children, including children with physical and mental disabilities, can enjoy their right to grow up in a family environment and in community based non-custodial settings.

## Administration of justice

The second largest number of children deprived of liberty can be found in the administration of criminal justice, i.e. in police custody, pre-trial detention facilities and prisons. Detaining children in conflict with the law is not *per se* a violation of the CRC. However, the principle of a 'measure of last resort' in Article 37(b) CRC requires all law enforcement agencies, including the police,

prosecutors, judges and prison administrators, to examine in each individual case whether proper non-custodial solutions are available and should in fact be applied. Article 40(4) of the CRC provides in this respect: 'A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.' This means that diversion measures shall be applied at every stage of the criminal procedure: as alternatives to the arrest by the police; to a court decision leading to pre-trial detention; to a decision of a prosecutor to charge a child for a criminal offence; to a court judgment finding a child guilty of a criminal offence and a judgment sentencing a child to imprisonment; and finally to a decision of the prison administration when enforcing such judgments. At each of these stages, the competent authorities shall consider transfer of children from the criminal justice system to the child welfare system. This requires sophisticated instruments for structured inter-agency co-operation between the child welfare system, social protection, education and health systems on the one hand and law enforcement and justice systems on the other hand, to build comprehensive child protection systems and implement prevention and early intervention policies. Above all, there is a strong need to support families, communities, schools and child welfare systems to deal with children in conflict with the law.

There are a number of root causes and pathways leading to such a large number of children deprived of liberty in the context of the administration of justice.<sup>18</sup> First of all, many States retain an excessively low age of minimum criminal responsibility. While the CRC Committee advocates that this age shall be raised to at least 14 years of age,<sup>19</sup> more than 120 States maintain the minimum age at below 14.<sup>20</sup> At 10 years, England, Wales, Northern Ireland and Ireland maintain the lowest minimum age of criminal responsibility in Europe. In

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<sup>18</sup> See Global Study (note 1), 274 ff.

<sup>19</sup> See CRC-Committee, General Comment No. 24 of 18 September 2019, § 33.

<sup>20</sup> See Global Study (note 1), 280.

Scotland, the recent increase to 12 years is still far below the European average of 13.6 years. Secondly, instead of prevention, States often rely on repressive and punitive policies that lead to excessive criminalisation of children.

Behaviours that are typical for children are criminalised as so-called 'status offences': children are charged and detained for truancy, running away from home, disobedience, underage drinking, consensual sexual activity between teenagers, 'disruptive' behaviours and practices against tradition and morality. Despite the fact that Article 37(b) of the CRC allows deprivation of liberty of children only for the 'shortest appropriate period of time', life sentences for children remain legal in 67 States, specifically in Africa, Asia, Oceania, the Caribbean and North America.<sup>21</sup> The United Kingdom and Ireland are the only two countries in Europe that still permit life imprisonment for children. Even capital punishment still persists in 12 countries, and four Islamic countries (Iran, Pakistan, Saudi Arabia and Yemen) are known for having carried out executions of child offenders during the last 10 years. Thirdly, many States still lack a functional child justice system with special child courts and specially trained police officers, prosecutors and judges, as required by Article 40(3) of the CRC.

Discrimination is another important reason for the large number of children deprived of liberty in the administration of justice. Children from poor and socio-economically disadvantaged backgrounds, migrant and indigenous communities, ethnic and religious minorities, the LGBTI community and children with disabilities are largely overrepresented in detention and throughout the judicial proceedings. While boys are committing roughly two thirds of all criminal offenses of children, they account for 94% of all children detained in prisons and pre-trial detention centres.<sup>22</sup> This significant gender gap can be explained in part by the fact that girls often receive more lenient and non-custodial sentences and benefit much more than boys from diversion and non-custodial solutions during the different phases of the criminal justice system. If boys would equally benefit from diversion measures, the number of children in detention could be

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<sup>21</sup> See Global Study (note 1), 291.

<sup>22</sup> See Global Study (note 1), 225 ff.

significantly reduced. On the other hand, girls are also often discriminated against, for instance, in the application of 'status offences' and due to harsh abortion laws.

The Global Study also revealed significant regional disparities in the detention rate of children in prisons and pre-trial detention centres. While Sub-Saharan Africa has the lowest detention rate (less than four children detained out of 100,000 children), the American hemisphere scores highest. With a detention rate of 60, the United States is the country with the largest number of children behind bars, followed by South America (19), Central America and Caribbean (16) and Oceania (eight). Western Europe (five) shows a comparably low detention rate.<sup>23</sup>

### **Children living with their primary caregivers in prison**

Research for the Global Study shows that approximately 19,000 infants and young children live with their primary caregivers, usually their mothers, in prison.<sup>24</sup> Although they are not legally deprived of liberty, they are so *de facto*. The possibility for children to live in prison with an imprisoned caregiver, which is allowed in most jurisdictions until a certain age, is fraught with difficult considerations, beginning with the question of whether to permit the practice at all. This question can only be decided on a case-by-case basis by adopting a child-rights based approach and taking the best interest of the child into account, as both the exposure of the child to detention and the separation of the child from a primary caregiver/mother have adverse consequences for the child. On the basis of responses by States to the questionnaire and other data collected and analysed, the Global Study presents the most comprehensive overview of this important issue, which has so far not received sufficient attention at policy level, in judicial practice and in the relevant academic literature. The only provision in international law which explicitly addresses this question, is Article 30 of the African Charter on the Rights and Welfare of the

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<sup>23</sup> See Global Study (note 1), 262.

<sup>24</sup> Global Study (note 1), 340 ff.

Child of 1990. It deals only with 'Children of imprisoned mothers', but the Committee of Experts on the Rights and Welfare of the Child has interpreted it widely and applied it also to other primary caregivers. However, only eight, mostly European States allow children to co-reside with their fathers, and only Finland has provided information about a total of three imprisoned fathers having co-resided with their children in male Finnish prisons during recent years. In the other seven countries, proper 'Father-Child Units' seem to be missing in male prisons.<sup>25</sup>

Article 30 of the African Charter applies primarily a preventive approach by requiring States to: 'ensure that a non-custodial sentence will always first considered when sentencing such mothers; establish and promote measures alternative to institutional confinement for the treatment of such mothers; establish special alternative institutions for holding such mothers' etc. This preventive approach was applied and further developed by a landmark decision and further judgments of the South African Constitutional Court.<sup>26</sup>

The Global Study follows the approach of the African Charter and the South African Constitutional Court insofar as a situation in which children live with their imprisoned mothers should be avoided as far as possible. This means that every court, when sentencing a mother who is a primary caregiver of dependent children, has the responsibility to assess the possible impact of her imprisonment on child development, taking the best interests of the children as a separate consideration into account. In such cases, alternatives to imprisonment, including house arrest, and non-custodial sentences should always be considered first, when the children cannot stay with the father or another close family member. If neither solution is possible, States have an obligation to establish special alternative institutions for holding such mothers. In the absence of such special institutions, mothers may be allowed to take their children into prison, under the condition that States establish child-friendly

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<sup>25</sup> Global Study (note 1), 238 and 389.

<sup>26</sup> South African Constitutional Court, *S v M*, Case CCT 53/06 of 26 September 2007. See Global Study (note 1), 372 ff.

'Mother-Child Units'. Such units shall restrict the personal liberty of mothers and their dependent children as little as possible, provide for prenatal, perinatal and postnatal care and treatment as well as for access to proper health care, education and other facilities essential for the enjoyment of children's rights. If mothers are allowed to co-reside with their children in prison, arrangements should be made from the outset that they also may leave the prison together with their children. If this is not possible because of a long term prison sentence or a strict maximum age limit of children living with their imprisoned mothers, then States must ensure that preparations for the separation of an infant or young child from an imprisoned mother shall begin at the outset in order to avoid a traumatic experience for both. In general, States should avoid strict age limits and other general rules in order to allow proper decisions on a case-by-case basis, taking always the best interests of the child as a rights holder into account.

### **Migration-related detention**

Research for the Global Study found that, at a minimum, 330,000 children are currently detained worldwide for migration-related reasons. This is likely to be a significant under-estimation of the true figure, due to limitations regarding the quality, consistency and coverage of data available.<sup>27</sup> This figure covers unaccompanied and separated children as well as children migrating with their parents or other family members. Both from a legal and policy oriented point of view, migration-related detention of children raises a number of highly controversial issues and seems to be one of the major reasons for the lack of financial and other support by States for the Global Study.

From a legal point of view, migration-related detention can never meet the high threshold of a 'measure of last resort' in Article 37(b) CRC and is never in the best interests of the child, as required by Article 3 CRC. In other words, the Global Study follows the legal interpretation of the CRC Committee, the Committee on Migrant Workers, the UN Working Group on Arbitrary Detention,

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<sup>27</sup> See Global Study (note 1), 465.

the Special Rapporteur on the Human Rights of Migrants, the UN Secretary-General and various other UN and regional bodies, which clearly state that detention of children for purely migration-related reasons always violates the CRC and other human rights standards and should, therefore, never be allowed by States.<sup>28</sup> Nevertheless, data collected for the Global Study show that only 24 States, primarily in the Latin American and Southern African regions, adhere to this international standard and refrain from detaining children for migration-related reasons.<sup>29</sup> On the other hand, at least 80 States around the world are known to detain children for migration-related reasons in violation of international law. In Europe, Ireland is the only State that prohibited migration-related detention of children. Other countries, including the United Kingdom, have restricted the practice of detaining children and reduced the actual numbers. Similarly, Australia has significantly reduced its use of its offshore detention and increased its use of community-based non-custodial measures on the Australian mainland. In particular, all children had been moved off Nauru by the end of February 2019. By far the highest numbers of children detained for migration related reasons have been reported from the United States and Mexico.<sup>30</sup>

There is plenty of evidence that immigration detention is particularly harmful to the physical and mental health of children. The most elaborate health impact studies have been carried out in Australia and its offshore detention locations.<sup>31</sup> Inquiries by the Australian Human Rights Commission in 2004 and 2014 found that long-term detention of children resulted in anxiety, distress, bed-wetting, suicidal ideation, and self-destructive behaviour, including attempted and actual self-harm. A significant percentage of these children had a stress code that was consistent with a diagnosis of post-traumatic stress disorder (PTSD). Some of the stresses causing these conditions were related to the context of detention, including living behind razor wire, locked gates and being under the constant

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<sup>28</sup> See Global Study (note 1), 448 ff.

<sup>29</sup> See Global Study (note 1), 463.

<sup>30</sup> See Global Study (note 1), 460 f.

<sup>31</sup> See Global Study (note 1), 146 ff. and 469 ff.

supervision of detention officers. Other stresses were related to their prior journeys and experiences during flight and migration.

A particularly cruel and inhuman policy with unimaginable consequences for the mental health and development of thousands of migrant children (and their parents), was imposed in 2017 by US President Donald Trump.<sup>32</sup> These children, including toddlers and new-borns, were forcibly separated from their parents, treated as unaccompanied children and held in immigration detention, while their parents were detained in different places, and many were returned to Mexico and/or their countries of origin. In the face of legal challenges and public outcry, the Trump administration announced an end to this policy in July 2018. Nevertheless, children continued to report instances of separation from parents or adult caregivers in mid-2019, and the fate of thousands of children, who were separated from their parents before, remains unknown!

### **Armed conflict**

Children detained in the context of armed conflict often find themselves in a cycle of violence. First, armed groups illegally recruit them, usually through force, coercion or deception. Second, government authorities then detain them for suspected association with those very groups, often subjecting them to torture and other forms of ill-treatment, most often for intelligence gathering purposes or confessions of involvement with armed groups. Many children are detained simply because they appear to be of fighting age or come from communities perceived to be sympathetic to opposition forces, or because their family members are suspected of involvement with such forces.

Research for the Global Study found that, at a minimum, 35,000 children are currently deprived of liberty in the context of armed conflict.<sup>33</sup> That figure includes an estimated 29,000 foreign children of alleged ISIS fighters detained in 2019 in camps in Iraq and the North-East of Syria. In Nigeria, roughly 2,000 children have been detained for suspected Boko Haram affiliation. Hundreds of

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<sup>32</sup> See Global Study (note 1), 476 f.

<sup>33</sup> See Global Study (note 1), 593 ff.

detained children have also been reported from Israel, the Democratic Republic of Congo, Somalia and Afghanistan.

The conditions of detention are particularly poor in the context of armed conflict, and children are often tried in military or adult courts without adequate procedural rights. Several African countries, including Chad, Mali, Niger and Somalia, have adopted handover protocols for the release and transfer of children associated with armed groups from government custody to child protection agencies, including UNICEF supported care centres, for rehabilitation and reintegration.

### **National security**

In recent years, armed groups designated as terrorist or armed groups termed violent extremist have recruited thousands of children, in some cases across borders, to carry out suicide and other attacks, and for various support roles. Some are recruited through force, coercion or deception, while others are influenced by family members and peer networks, poverty, physical insecurity, social exclusion, financial incentives, or a search for identity and status. The Internet has also provided such groups with new avenues to recruit children, who are often particularly susceptible to propaganda and online exploitation due to their age and relative immaturity.

In response to heightened concerns about threats to their national security and counter-terrorism resolutions adopted by the UN Security Council, the vast majority of States have adopted new counter-terrorism legislation or amended existing national laws since 2001. These laws often fail to distinguish between adults and children, include overly broad definitions of terrorism, provide fewer procedural guarantees, and impose harsher penalties. Some States criminalise mere association with non-State armed groups designated as terrorist, thereby increasing the number of children detained and prosecuted for association with such groups. Such laws are also used to detain children for a broad range of activities outside of national security concerns, such as posting political opinions

online, participating in peaceful protests, involvement in banned political groups or alleged gang activity.

The combination of increased activity by such non-State armed groups, the extensive exploitation of children by these groups and increasingly expansive counter-terrorism measures in countries around the world has increased the number of children detained in the context of national security grounds. Research conducted for the Global Study identified at least 31 conflict and non-conflict countries where children have been detained in the context of national security grounds. The vast majority of these children are detained in conflict countries, such as Syria, Iraq and Afghanistan, as was described above. In countries without an armed conflict on their territories, the number of children detained for reasons of national security is difficult to assess, as many States do not provide relevant data. The Global Study only covers a number of countries where relevant data are available and estimates that at least 1,500 children are detained in these countries on national security grounds.<sup>34</sup> This survey includes Western countries, such as Australia, France, Germany, the United Kingdom and the United States, as well as selected other countries in all world regions, including El Salvador, Egypt, Ethiopia, Jordan, Malaysia, Tajikistan, Thailand and Turkey. For example, in Turkey at least 197 children were detained in prison on terrorism-related offenses related to the Kurdistan Workers' Party (PKK). In El Salvador, 206 children were held in security detention for alleged gang activity. In France, 275 children were placed in administrative detention for a range of suspected offenses, including terrorism and 'apology for terrorism'.

Thousands of children from more than 80 countries travelled to Iraq or Syria, either alone or with their families, to join ISIS both before and after the declaration of the 'caliphate' in June 2014. Many of these children originated from either Western or Eastern Europe. Over 1,000 children associated with ISIS are believed to have returned to their home countries, while others were killed in Iraq or Syria or are detained there. A small number of children have been detained and prosecuted after their return home, including in France. A number

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<sup>34</sup> See Global Study (note 1), 640.

of European countries have passed legislation to revoke citizenship for individuals who travelled abroad to join non-State armed groups designated as terrorist in order to prevent them from returning. The Global Study recalls, however, that States should treat children associated with armed groups designated as terrorist or violent extremist primarily as victims of grave abuses of human rights and not as perpetrators.<sup>35</sup> It follows that States should take responsibility for their child nationals detained abroad by facilitating their return to the country of origin and their participation in de-radicalisation programmes aimed at their reintegration into society.

## **Progress Achieved**

There are a considerable number of positive practices, which are documented in detail in the Global Study, and which have led to a certain reduction of the number of children deprived of liberty.

In the administration of justice, many States have introduced child justice legislation and established corresponding specialised procedures, including special courts for children, which have led to the effective diversion from the criminal justice system. These developments seem to have contributed to a certain decrease in the number of children detained in prisons and pre-trial detention centres. While UNICEF (2007) has estimated the total number worldwide as over one million children, research for the Global Study indicate that this number may have dropped to less than half.

Similarly, the UN Guidelines for the Alternative Care of Children of 2009 seem to have had a positive impact on the de-institutionalisation practices of States. While in the Global Study on Violence against Children of 2006, the total number of children living in institutions was estimated as eight million,<sup>36</sup> research conducted for the current Global Study indicates that this number may have dropped to 5.4 million. Good practices of de-institutionalisation have, for

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<sup>35</sup> See in this sense also UNSC Res. 2427 of 9 July 2018, §§ 20 ff.

<sup>36</sup> See Pinheiro Study, para 55.

instance, been documented in the former Communist countries in Central and Eastern Europe and Central Asia.<sup>37</sup> In Georgia and Bulgaria, the decrease in the number of children living in institutions even amounts to more than 95%, in Montenegro, North Macedonia and Moldova to between 80% and 90%, in Lithuania, Poland and Serbia to between 70% and 80%, followed by Belarus (67%), Azerbaijan, Armenia, Romania, Croatia and Hungary (all between 50% and 60%). The Russian Federation, which had one of the highest number of children deprived of liberty in institutions, also reports a decrease of 46%. Thousands of children, including children with disabilities, have now been reunited with their families or placed in family-type settings in the community. Many Western States, such as Australia, Canada, Austria, Ireland, the United Kingdom, including Scotland, or the Netherlands conducted inquiries regarding children abused in institutions, which have led to system wide reforms, including de-institutionalisation policies. Similar achievements have also been reported from other regions and countries, including Argentina, Brazil, El Salvador, Tanzania, South Africa, Mauritius and Kuwait.<sup>38</sup>

With respect to migration-related detention of children, research for the Global Study and responses to the questionnaire indicate that 24 countries, above all in Latin America and Southern Africa, do no longer detain children. In response to growing internal and external criticism to its mandatory detention practices and its use of offshore detention facilities, above all on Nauru and Christmas Island, the Australian Government has taken effective measures to reduce its use of offshore detention and increasing its use of community-based non-custodial measures on the Australian mainland. This had a considerable effect on the decline of the number of children detained for migration-related reasons. In Europe, Ireland prohibited the immigration detention of children in asylum and return procedures. In Austria, children under the age of 14 cannot be detained for migration-related reasons, in other European countries, including the Czech Republic, Finland, Latvia and Poland, this age limit is 15. In the United Kingdom,

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<sup>37</sup> See Global Study (note 1), 551.

<sup>38</sup> See Global Study (note 1), 553 ff.

the number of children deprived of liberty for migration purposes has also declined considerably over recent years.

With respect to children living in prisons with their primary caregivers, usually mothers, questionnaire responses reveal that many governments accord much more attention to this issue than before. They apply an individualised, informed and qualitative approach, which aims at striking a fair balance between the interests of the mothers to keep their young children with them in prison, and the best interests of the affected children. Research for the Global Study indicates a trend in both State practice and high court jurisprudence, above all in South Africa, to ensure, as far as possible, that mothers as primary caregivers with dependent children are not sentenced to prison terms and that non-custodial solutions are prioritised.

In the context of armed conflict, the UN Security Council in 2018 called on all parties to such conflicts to cease unlawful or arbitrary detention of children and encouraged States to establish 'standard operating procedures for the rapid handover of the children concerned to relevant civilian child protection actors'.<sup>39</sup> This has already had a positive impact on States' practice, as some African States, including Chad, Mali, Niger and Somalia, have signed such handover protocols with the United Nations, transferring children associated with armed groups to child welfare centres, with the aim of ensuring their rehabilitation and reintegration into society.

With respect to national security, several States have opted for children associated with non-State armed groups designated as terrorist to be tried in special courts for children. While many States have been reluctant to bring home child nationals associated with such groups from conflict-affected areas, some States, including Switzerland and the Netherlands, have adopted return plans with clear responsibilities for State authorities concerning the necessary steps for the safety, reintegration and rehabilitation of such children.

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<sup>39</sup> UNSC Res. 2427 of 9 July 2018, § 19.

## Recommendations

The overall recommendations of the Global Study<sup>40</sup> follow directly from its findings and conclusions as well as from the analysis of best practices. They are inspired by the high legal standards of the CRC regarding the rights to personal liberty, personal integrity and dignity of children and aim at reducing the huge implementation gap between these standards and the sober reality of children deprived of liberty worldwide in all six focus areas covered by the Global Study. These recommendations are only the beginning of a long process, which ultimately seeks to ensure that no child is left behind bars.

First of all, I strongly recommend that States make all efforts to significantly reduce the number of children held in places of detention and prevent deprivation of liberty before it occurs, including addressing the root causes and pathways leading to deprivation of liberty in a systemic and holistic manner. In order to achieve this goal, States are urged to develop national action plans with clear targets and benchmarks indicating how to reduce progressively and significantly the number of children in the various situations of deprivation of liberty and how to replace detention of children by non-custodial solutions.

To address the root causes of deprivation of liberty of children, States should invest significant resources to reduce inequalities and support families to empower them to foster the physical, mental, spiritual, moral and social development of their children, including children with disabilities. States should also invest significant resources in the child welfare system. They should ensure a close inter-agency cooperation between the child welfare, social protection, education, health and justice systems, the law enforcement as well as the administration of migration and refugee policies.

In all decisions that may lead to the detention of children, I call upon States to most rigorously apply the requirement of Article 37(b) of the CRC that deprivation of liberty shall be applied only as a measure of last resort. This means that children may only be detained in truly exceptional cases and for the

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<sup>40</sup> See Global Study (note 1), 668 ff.

shortest appropriate period of time. I further call upon States to repeal all laws and policies that permit the deprivation of liberty on the basis of an actual, or perceived, impairment or on the basis of their sexual orientation and/or gender identity.

For the six situations of deprivation of liberty covered by the Global Study, my recommendations directly follow from the analysis above and shall not be repeated here in detail. Most importantly, I urge States to:

- Stop all forms of migration-related detention of children
- Adopt a comprehensive de-institutionalisation policy
- Establish special child justice systems, apply diversion at all stages of the criminal justice process and transfer children from the justice to the child welfare system
- Avoid the imprisonment of mothers as primary caregivers of young children
- Treat children recruited by armed forces or groups designated as terrorist as victims rather than as perpetrators.

With respect to the follow-up, I strongly recommend that deprivation of liberty, as one of the most neglected violations of the CRC, should remain on the agenda of the General Assembly, the Security Council and the Human Rights Council. While all UN agencies and mechanisms should play an active role in the monitoring of the implementation of these recommendations, I call upon the General Assembly to consider, as soon as possible, a specific and effective follow-up mechanism aimed at disseminating the Study findings, at promoting its recommendations, monitoring progress and ensuring the development and maintenance of an international database, containing all relevant data on children's deprivation of liberty in all UN member States. As children have a right to be heard and actively participate in all matters directly affecting their lives, they shall also be directly involved in all follow-up activities.

The Global Study is only the first step in liberating millions of children from detention. Let us not lose this momentum to give children back their childhood

and to contribute to the ultimate goal of the Agenda 2030 to leave no one behind and, in particular, to leave no child behind bars!

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## About the Kilbrandon Lecturer

Professor Manfred Nowak is an Austrian human rights lawyer who served as the UN Special Rapporteur on Torture, 2004-2010 and as a judge at the Human Rights Chamber for Bosnia and Herzegovina. In 2016, he was appointed Independent Expert leading the UN Global Study on Children Deprived of Liberty.

# Book Review: Not Again Little Owl

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Dr Vivien Norris, the author, is Clinical Director of the Family Place and her experience as a clinical psychologist, Theraplay and DDP practitioner is evident throughout the book.

The book is the story of Little Owl whose Mummy isn't able to look after him properly. It is decided by Rabbit that he should live with his Granny but she can't keep up with his bounciness. So Little Owl is moved again by Rabbit, first to Fox and then on to Hedgehog and then eventually to Badger. Badger is able to help him and can accept him with all his speed and bounciness, and help him with his 'muddles'. Little Owl begins to relax with Badger, they fit together and he starts to feel safe. When Rabbit arrives once more to move him again Little Owl is so upset and frightened. He doesn't know Squirrel and doesn't want to move again. Badger and Rabbit accept his feelings and stay right alongside him during the move. Badger is able to tell Squirrel about all that Little Owl has been through and how hard it has been, and the special ways he needs to be looked after to make him feel safe.

The joy and positivity for me about this book is how the child and adults reading it can experience all the different emotions evoked in the story and experience how hard it is for Little Owl to make sense of what is happening.

This book is part of a series written by Norris named *By your Side* which is a model designed to aid transitions from one family to another. Two other books have been written in the series, one as a guide for foster carers and adopters and one for social work practitioners. Norris is very clear why she has developed this model. She explains that the resources she found when moving a four year old child who had already moved six times were not helpful as they had an adult agenda and focussed only on the positives. In *Not Again Little Owl* Norris has created a story which allows the child's distress to be acknowledged and creates

an opportunity for the adults to stay with the sadness and enable the child to start to feel safe enough to show their emotions. Norris makes it clear that all those involved in moving children between families will need support.

I first came across the work of Norris five years ago when I discovered the poster and practice notes she had written along with Sally Twigger on Using Theraplay to support transitions from fostering to adoption. The outlook used was a breath of fresh air for me, as working in the world of adoption support there seemed to be a lack of coherence in the way children moved between families. Sometimes it seems the child's needs at the time of transition are lost and processes and procedures take over. How we move children between families and the messages we as adults give to children seems central to childrens' understanding of who they are and what has happened to them. Not Again Little Owl for me is a great book to start working with children to heal from the hurt they may have experienced through multiple moves. I would recommend this book to adoptive parents, foster carers and kinship carers, and to all the professionals working with children and families.

### **About the author**

Fiona is an adoptive parent of two young adults. Recently retired she previously worked in development roles for Scottish Attachment in Action and Adoption UK in Scotland. She is one of three Directors of Cairnsmoir Connections a social enterprise based in Scotland, providing books and resources for those living and working with the impact of trauma and adversity.

# Book Review: Beyond 18 - Leaving child care institutions: a study of aftercare practices in five states of India.

UNICEF: India Country Office. Available at:

[https://www.udayancare.org/upload/Reports/2019-20/Full%20report\\_%20Beyond%2018.pdf](https://www.udayancare.org/upload/Reports/2019-20/Full%20report_%20Beyond%2018.pdf)

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This is a review of an overview report of a study conducted by Udayan Care in India with support from the United Nations Children's Fund (UNICEF), Tata Trusts and the five State Governments of Delhi, Gujarat, Karnataka, Maharashtra and Rajasthan.

The study is based on a sample of 435 care leavers and over 100 key informants, including professionals working on the ground on child protection in the five states. The data for the five states highlights consistently poor outcomes in education, housing, life skills and other domains of the lives of the care leavers within the study, as well as highlighting state level variances in care leavers' experiences and outcomes. Across the states, the study shows that the quality of support received by care leavers is not comprehensive and that their journey to adulthood is often disrupted, unstable and full of challenges.

There are many similarities across national contexts, in terms of issues highlighted in the report as well as proposed solutions that resonate with those involved in research, policy and practice with care leavers. For example, despite clear laws and policies, and research evidence into 'what works', there is the challenge of consistent implementation with variations within and across each of the five states, resulting in what may be described as a 'post-code lottery' of supports and services. This is a picture that will be familiar to many in Scotland.

The study proposes a 'Sphere of Aftercare' concept, or model, which offers a framework for support across eight interdependent domains (such as housing, health and wellbeing, education and so on) much like the Pathways Planning headings or pillars of the Scottish Care Leavers Covenant. This acknowledges the interconnected holistic needs of young people transitioning from care to adulthood as well as making the case for improved inter-agency planning and collaboration.

The study calls for a renewed political commitment and leadership at both local and national levels to remove the practical barriers faced by care leavers as they transition to adulthood and increasing independence.

The study also makes a number of key recommendations including: the need to recognise care leavers as a distinct vulnerable group (a protected characteristic); strengthening the voices of care leavers; greater collaboration amongst agencies; an improved focus on the implementation of existing legislation and policies; as well as proposing changes to specific aspects of legislation and policy to improve planning and strengthening entitlements.

Overall this is a fairly comprehensive study, both accessible and clear in its findings and recommendations. Whilst targeted primarily at a domestic audience, the common themes, issues, challenges and potential solutions will be familiar and resonate strongly across different national contexts. Despite the political, cultural and social differences in India – and the scale of the issues they face in comparison to many western countries – there is a positive core to this report. It is well balanced in identifying challenges and issues, alongside offering clear, tangible evidence-based recommendations for change and improvement. Running through the study is a clear values-based and rights-informed message which acknowledges the hopes and dreams of care leavers and calls for a renewed commitment to ensure them 'a life of dignity as well as protection from moral and material abandonment' (p.19). This is a message that transcends national contexts and one that needs repeating regularly in Scotland and across the UK.

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## About the author

Kenny McGhee is the Throughcare and Aftercare Lead with CELCIS, based at the University of Strathclyde. Kenny has been actively involved in the development and implementation of policy, practice and research into issues to improve services and outcomes for young people transitioning from care to adulthood and interdependence. He works with corporate parents and other key stakeholders at both national and local level to close the implementation gap between policy and practice.