

Open Letter

Poor Psychological Assessment Reports in Family Courts & Cover-up of Criminality

'Only the death penalty is more drastic than removing a child from its parents forever' stated the President of the Family Court Sir James Munby. In the UK each month about 1000 children are separated forever from their birth parents against their will in a Family Court process that veteran campaigner Ian Joseph calls 'Forced Adoption' (see www.forcedadoption.com). Most of these parents are loving and law abiding.

Psychological assessment reports routinely inform such ultra-high stakes court decisions that are for biological parents more traumatic and life changing than losing a child to an accident or illness as they grieve the loss of their child who is 'bundled off' into the unknown never to be seen again (unless they search out birth parents when reaching adolescence or adulthood).

Forensic Psychology Professor Jane Ireland (2012) found that 2/3 of psychological assessment reports sampled from Family Court cases were 'poor' or 'very poor' in a ground-breaking research study commissioned by the government-funded Family Justice Council. Rather than producing heated discussion and a plethora of follow-up research an eerie silence followed and a joint report that this organisation issued in conjunction with the BPS in January 2016:

http://www.bps.org.uk/system/files/Public%20files/inf248_family_court_guidance_web.pdf

The guidelines clearly build on the recommendations of Ireland and her co-researchers but fail to acknowledge that contribution, omit the critical findings and do not feature a single academic reference. The guidelines reinforce that Psychologists in this setting have to be prepared to write reports that can have negative consequences for the birth parents but do not at all tackle the issues of potential bias and 'compromise'.

Neal & Grisso (2014) skilfully discuss the issue of 'bias' in forensic report writing: *'Evaluators perceived themselves as less vulnerable to bias than their colleagues, consistent with the phenomenon called the "bias blind spot". Recurring situations that posed challenges for forensic clinicians included disliking or feeling sympathy for the defendant, disgust or anger toward the offense, limited cultural competency, pre-existing values, colleagues' influences, and protecting referral streams.'*

To what extent then is there a risk of bias in Family Courts given that authority representatives control who gets commissioned to conduct such work and are unlikely to continue instructing private sector professionals who disagree with 'concerns' raised?

'Dubious 'experts' are paid to tear families apart' was one of the media responses to Ireland's report which quoted a case that appears to be 'typical': *'Another woman was found by a psychologist to be "a competent mother" – so the social workers went to a second witness, who found the same. They then commissioned a third, who at last came up with what they wanted: that the mother had, again, "a borderline personality disorder". On that basis, her three children were sent for adoption.'*

It transpired a few weeks ago that the HCPC accepted a 'Fitness to practice' concern raised about Prof Ireland that was after a lengthy hearing dismissed – after 4 years (!):

<http://www.lawgazette.co.uk/news/case-dismissed-against-author-of-damning-expert-witness-report/5055691.fullarticle>

How appropriate was it that the HCPC as a regulator permitted this persecutory case to be 'accepted'? What has the BPS done to address the research findings?

Devine (2016) charts the ever-rising numbers of children 'taken into care' and questions the wisdom and legality of the approach. The 'false positive' (child unnecessarily removed) rate that may be as high as 85% (arguably the remaining 15% would be better dealt with through criminal courts).

Wrennal (2010) goes further identifying 'dark forces' at work – a view I have to agree with having experienced the pervasive 'looking away' attitude and 'closing rank' culture that continues to surround child abuse allegation (see Kurz, 2015). The public is still reeling from the revelations about the Jimmy Saville abuse regime and successful prosecutions against some former media stars. Few however have taken in the successful prosecutions of chilling abuse by Ian Watkins convicted based on video evidence of a sexual assault on a baby, Colin Bately convicted on the basis of CCTV footage and DNA proof of fathering a baby (read the book written by his victim 'Annabelle Forest') and Albert and Carolee Hickman who in a re-trial were convicted – partly due to historical (unsuccessful) police complaint filed at the time of the abuse – for child sexual and sadistic abuse including blood sucking.

When any such allegations surface in the Family Court system the authority stakeholders are quick to dismiss these as lies, the result of 'coaching' or the product of a personality disorder. Child and adult victims are often simply too scared to tell the full truth in police interviews. Reluctance to speak out is then frequently turned against the victim. Disconcerting are also reports of 'fraud' and 'compromise' in proceedings as well as the not infrequent incidents of 'violent deaths' in the vicinity of cases which are ignored as 'Civil Law' rather than 'Criminal Law' applies.

Key questions that the profession and society at large need to address:

In Criminal Law 'Innocent until proven guilty' is the rule so how appropriate is it to make life changing custody decisions on a 'Balance of probabilities' basis where 'professionals' are always more believed than parents and an implicit 'Inadequate at parenting assumption' applies as soon as a 'concern' is raised? How ethical is it to provide psychological assessment evidence when 'shared instruction' is akin to 'instruction by the prosecution' and income protection may bias professional views?

Criminal matters are handled in open court – justice must be seen to be done. The Children's Act (1989) enshrined that the identity of children needs to remain confidential. However Family Court judges since have thrown a blanket of secrecy across proceedings with draconian 'Contempt of Court' rules that see 200 mothers at any given time in prison for e.g. waving at the child they lost in a chance encounter at a petrol station. Court Appointed Experts enjoy an extremely privileged position and are virtually 'untouchable' e.g. they cannot be sued privately and HCPC concerns require 'permission of the court' for release of court protected documents.

Personality disorders should only be diagnosed if they have a pervasive effect on work and home functioning. However references from individuals who are not 'party to the proceedings' are ignored and 'ordinary' behaviour gets 'pathologised' e.g. in one instance repeated filing of appeals was cited as 'evidence' for a histrionic personality disorder. I applaud efforts in DSM-5 to move towards a dimensional view where Section 3 page 771 provides an alternative dimensional model for personality disorders where Histrionic, Paranoid, Schizoid and Dependent are no longer featured. For the remaining ones a de-medicalisation could be achieved by referring to 'personality difficulties'.

On https://www.researchgate.net/profile/Rainer_Kurz2 I put a dozen academic presentations concerning a particularly chilling case where several Court Appointed Experts are 'in denial' about child abuse and its wider background, and other materials on my blog:

<https://psychassessmentblog.wordpress.com/>

References:

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See also:

<https://thepsychologist.bps.org.uk/volume-28/october-2015/close-encounters-psychological-kind>

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