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Psychological assessments of young people in family courts:

Relationality, experience, representation and the principle of “do no harm”

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Abstract

This paper considers the conduct of psychological assessments of young people in family courts and research into those professional practices. It extends the potentially progressive construct of reflective practice (Family Justice Council / British Psychological Society, 2016) by attending to issues of *relationality*, *experience* and *representation* which are not routinely prioritized in some assessment and training models and, significantly, it instantiates Harre’s claim for ‘qualitative psychology as science’ (2004:1). The responsibility of psychologists conducting assessments of young people in family courts in England and Wales is to work in the “best interests of the child” (Unicef, 1989, DoH, 1989). It is argued that some assessment practices are better able than others to attend both to scientific and ethical issues since assessment practices do not merely report truths about a young person but construct the young person and the psychologist in a dynamic causal bind. Narrative methodology is utilized in a fictional case vignette, firstly, to highlight the problematics of dominant epistemologies in psychology and secondly, to demonstrate the importance to scientific formulation of ontological possibilities in the dyad between practitioner and young person. The paper has implications for all psychologists who conduct assessments or research in statutory or legal contexts.

Keywords

psychological assessments, family courts, young people, narrative, fictional case vignettes

1. Introduction

Young people globally are the subjects of intensive regimes of government, whether via the direct authority of state legislatures or in some countries through sophisticated power dispersal and exchange mechanisms operationalized by “whole arm[ies] of technicians... warders, doctors, chaplains, psychiatrists, psychologists, educationalists...” (Foucault, 1977:11). For decades now, I have been one of those technicians, working with young people from infancy through to young adulthood, as researcher, practitioner, trainer and supervisor invariably enmeshed in developmental discourses whatever the setting (schools, homes, university and family courts) which have circulated ultimately around the nature and boundaries of childhood and the differences between young people (Burman, 2017).

It has been the responsibilities, ethics and consequences of professional practice which have been of particular concern, however, especially when working under the auspices of the state. Countless dilemmas have arisen relating to the processes of individual and collective action in situations which will no doubt be familiar to all practitioners and researchers who work with young people under statutory conditions. In previous critiques of professional practice a variety of qualitative research methodologies have been deployed, for example, discourse analysis (Billington, 1995), Foucauldian analyses of power (1996), critical psychology (1997, 2017), narrative methods (2000), psychodynamics (2006) and social constructionism (Corcoran and Billington, 2016), often relating to direct work with young people (Billington, 2006a), their parents (2000a) or school staff (2012).

In reflecting for the first time upon work in family courts, however, this paper examines ways in which assessments with young people might be conceptualized and performed in a

governmental arena so as to accord specifically with the principle of “do no harm”, utilizing narrative methodology in the form of a fictional case vignette. There can be no massaging away of the power invested in psychologists or in the legal contexts of performance although the focus in this paper will not be directly on analyses of power relations but purposefully on other epistemological and ontological resources (Corcoran, 2012) which aspire to that primary principle of “do no harm”.

The Family Division of the High Courts of England and Wales can request psychologists to assist in its decision-making in respect of the care of young people, for example, in situations in which young people have either suffered or are considered at risk of suffering serious harm or abuse. The work of both family courts and the psychological assessments conducted under their jurisdiction are complex but not only can professional practice generally be inaccessible to research (Adams and Miller 2008; Fleet, Burton, Reeves and DasGupta 2016), family court proceedings can be especially opaque, with only a few authorized exceptions (Motzkau, 2007; Jay, Woodman, Broadhurst and Gilbert 2017; Trinder 2013; Broadhurst, Alrouh, Yeend, Harwin, Shaw, Pilling, Mason, Kershaw 2015). The reporting restrictions essential in protecting the anonymity of those young people who are the focal point for the work of family courts (Channel 4, 2013; Guardian, 2015; Telegraph, 2015), whilst absolutely necessary, can thwart attempts to shed light on a largely hidden public governance of the (young) person.

Psychologists are instructed to work in the “best interests of the child” (Unicef 1989, DoH 1989) but the issue of psychological assessments in family courts has on occasion been controversial and following alarmist media reports (Channel 4 2012; Guardian 2016, 2016a),

the Family Justice Council (FJC) and British Psychological Society (BPS) subsequently updated guidance as to how the chosen “experts” should act in accordance with their responsibilities as practising psychologists. The FJC / BPS Guidance helpfully placed as central within any assessment process “psychological formulation [which is] a highly skilled process combining scientific principles with reflective practices...” (para. 2.4, 2016: 4). In developing understandings and possibilities which are offered in this concept of “reflective practices”, three ontological resources are drawn upon in this paper - *relationality*, *experience* and *representation* - which can struggle to achieve primacy in some assessment and training models and the process will look to instantiate Harre’s claim for “qualitative psychology as science” (2004:1).

The paper is, therefore, a response to personal dilemmas experienced in professional practice, to issues arising as a supervisor / educator but also to those wider public concerns expressed via the media and state institutions. It is important to make clear, however, that it is an essentially theoretical study which looks neither to critique the work of family courts nor provide a systematic evaluation of the work of psychologists, whether in family courts or elsewhere. Rather, the paper is principally rooted in critiques of psychological practice which address that principle of “do no harm”, by focusing on the “encounter” (relationality) between psychologist and young person (Billings and Stoeckle, 1998; May, 2007) but also on the quest for ethical, theoretical and empirical research methods which might represent something of the phenomena arising during those encounters. Being mindful of Michael Billig’s rejoinder that there can be no psychology without people (2011), the paper’s empirical claims are located within myself as writer and in the construction of a fictional case vignette (Clough 2011; Kara, 2013; Orbach 2016). The fictional vignette is preferred as a means of facilitating the arguments not only on account of legal complexities but also due to

ethical concerns involved when returning to interrupt the lives of young people and their families seen previously within the family court whose circumstances in the past (invariably distressing) may well be difficult for them to re-visit.

Following a critique of the claims to science made within psychological practice, the interface is explored between the principle of “do no harm” and the circulation of psychopathologies. A section on the problematics of representation is then followed by presentation and analysis of the fictional case vignette. The paper constitutes an original conceptual contribution to a highly complex area of work – the psychological assessments of young people in family courts – in which there is little previous research and, subsequently, provides directions for future research, training and professional practice.

2. The problematics of scientific evidence in psychological practice

‘Bitzer,’ said Thomas Gradgrind. ‘Your definition of a horse.’

‘Quadruped. Graminivorous. Forty teeth, namely twenty-four grinders, four eye-teeth, and twelve incisive. Sheds coat in the spring; in marshy countries, sheds hoofs, too. Hoofs hard, but requiring to be shod with iron. Age known by marks in mouth.’ Thus (and much more) Bitzer. (Dickens, [1854] 1995: 10-11).

In this extract from the English Victorian novel, *Hard Times*, the school benefactor, Thomas Gradgrind, urges a star protégé, Bitzer, to provide the class with the “facts” about horses. Bitzer’s response was in stark contrast to the efforts of Sissy Jupe, a new girl in the school who, moments before Bitzer’s authoritative enunciation, had been paralysed by this same

question. Sissy and her father (a “horse breaker...veterinary surgeon...” *ibid*:10), however, were familiar with animals and horses, and her inability to respond was due, not to any lack of knowledge but in part her failure to comprehend both the strictures and the implications of the specific question itself. For Gradgrind’s question just did not make sense in relation to her experience of the individual animals with whom she lived and breathed.

In the brief extract above, Dickens allows us to see that there are certain kinds of knowledge which are ill-suited to represent the living. This can be a problem for all psychologists, of course when using forms of representation which are unable to contemplate persons (Martin, Sugarman and Hickinbottom 2010; Costa and Shimp 2011), a problem rendered visible whenever the person is denied in favour of the category. Luria’s solution to the persistent methodological dilemma in the past can be seen in his call for psychology to become a “romantic science” (1977) (also Pearce, 2010). In medicine, Oliver Sacks implored his students “don’t try to remember syringomyelia from your text books – think of me” (2016: 181) adding, “I felt that a student could not be reduced to a number or a test any more than a patient could” (*ibid*: 181) while Lee and Motzkau (2013: 7) suggest that the social and the biological provide altogether “ontologically separate spheres of activity”. Psychologists in family courts are routinely reminded in “instructions” (the legal contract) that assessments provide only opinion, for the “facts” of any matter will be determined by the court itself following consideration of the whole of the evidence. Despite this helpful directive the task for the psychologist - of representing individual living persons - is problematic, especially when contributing to processes in which life-affecting decisions are being made about those same young people.

The “scientist-practitioner” model (Committee on training in clinical psychology 1947; Shapiro 1967; Soldz and McCullough eds. 2000) became established in most professional psychology training programmes in the US and UK during the second half of the 20th century and a very particular kind of knowledge-base developed upon which clinical practices should be constructed. The theoretical assumptions underpinning many such training models have thereafter been developed into epistemologies which, if applied exclusively, can imply that psychological knowledge 1) exists in inert forms distinct from actual persons; 2) can only reliably be obtained under experimental conditions (i.e. specifically randomised control trials) and 3) is knowable only to the expert psychologist. Such an approach can disavow the individual client (young person) in much the same way that Gradgrind had claimed a knowledge of all horses superior to that possessed by the young horse-woman. The knowledge or “facts” circulated by psychologists can conceal epistemological and ontological complexities within forms of authoritative, intrinsically paternalistic discourse (Gilligan 1982; Henriques et al. 1984; Butler 1990; Burman 2017), which had bewildered Sissy yet which had been recognized too by one of the founding figures of modern psychology:

Probably a crab would be filled with a sense of personal outrage if it could hear us class it without ado or apology as a crustacean, and thus dispose of it. “I am no such thing,” it would say; “I am MYSELF, MYSELF alone.” (James 1957 [orig. 1902]: 17).

Sissy Jupe will have had relationships not just with any generalised quadruped but with many individual living animals and horses which, while possessing many observable differences, could no doubt also exhibit a more subtle range of character traits, behaviours and

inclinations. It is argued here, therefore, that psychological assessments for family courts need to be able to engage with methods which are capable of moving beyond the level of the category, the generalizable or the quantifiable. The “reflective practices” suggested by the FJC/BPS above (see originally Schon 1983) invite potentially different conceptualizations of the person to emerge beyond those available within a narrow application of positivist principles, especially if extended to the more ontologically nuanced possibilities of reflexivity (Finlay and Gough eds. 2003). Not least, reflective practice encourages the psychologist to draw on data from the relational encounters in the dyad between assessor and assessed, to consider the potential impact of those events on formulation and not least to draw on the psychologist’s own experience. Perhaps there needs to be a Copernican revolution in order that we begin to understand more scientifically the relational and experiential possibilities in the psychologist-client dyad although any “science of relationships” (Bion 1970:4) applied in practice, of course, would always be subject to the problematics of representation in the formulation of subsequent professional opinion.

3. Performing pathologization: Minimizing harm

Most young people assessed in family courts have been deemed via their life experiences to be in some way at risk of serious harm. Legislation and subsequent guidance to psychologists (BPS 2015) continue to support genuine attempts by practitioners to restrict the distress experienced by young people who have been subjected to often horrendous situations commonly distilled into the term “abuse” which, by definition, concerns serious harm suffered by the person. This paper does not seek specifically to address the various forms of harm and abuse suffered by young people (Buckley, Horwath and Whelan 2006; Holt, Buckley and Whelan 2008; Warner 2014) but while there are many social situations in which

young people need protecting, what if the assessment practices themselves constitute a potential source of harm?

The psychologist's expertise as well as the conduct of the assessment itself are subject in many countries to the authority of professional and / or other statutory bodies, responsibilities which in the UK are exercised by the BPS and the Health Care Professions Council (HCPC). While specific techniques and methodologies to be utilized in given situations are rarely made explicit either by the professional bodies or by the employer (here, a family court), the "instructions" received by psychologists prior to any assessment within family courts often spell out the "problem" (the likelihood that the young person has suffered some form of harm / abuse) and in the process create the epistemological terrain, deploying specific concepts which are regarded as being inherently psychological. "Attachment", "behaviour", "cognition", "disability", "learning difficulties" but additionally in recent years, "attention deficit", "autism", "emotional well-being and mental health" are all common terms upon which the psychologist is expected to have expertise. In this paper, whilst taking care not to deny people's experiences of themselves, such categories are regarded only very rarely as the inevitable consequence of a simple biological determinism but rather as social accounts or "narratives" circulated by psychologists (and others) which require sensitive application and interpretation. In my experience, the potential for harm arises should any representations within assessments serve to construct the young person primarily in terms of *a priori* deficits or pathologies at the expense of other qualities or potentialities.

The principle of "do no harm" is commonly but erroneously attributed to Hippocrates (Sokol, 2013) although the requirement for the medical practitioner to avoid harming the patient is long established (Inman, 1860). While this principle is accepted within the various ethical

protocols for psychologists too, both in research and practice (BPS, 2015), it had been apparent during my own professional training many years ago that a focus on quantification and psychopathology was not balanced by an equally sophisticated consideration of those issues of relationality, experience and representation which seemed ill-served by the “epistemological preoccupations” (Goodley 2017) of much mainstream psychological science. The consequences of restricting epistemological or ontological possibilities in practice, observed firstly in educational and then in legal spaces, has resulted in assumptions, firstly, that the psychologist is an essentially expert “unitary rational subject” (Hollway, 1989: 28-9) and, secondly, that young persons are passive in their manifestation of any category. The short-hand of the pathology can be enticing to hard-pressed services and supportive practitioners yet is ultimately misleading if it results in practices which fail to take account of the individual young person operating within unique constellations or variables of time and space (Bergson, 2001 [1913]).

During family court assessments, experiential data arising during the “clinical encounter” (Katz and Alegria 2009) can be overlooked by the psychologist should the focus remain primarily on a search for categorical certainties in respect of the young person. Reflection upon assessment encounters too, however, can just as easily be consigned to dispassionate theoretical critique and it is the intrinsic experiential relationality of psychologist and client which might more usefully be considered to be at the core of the assessment. A bold reconsideration of the penumbra of data which arise during such encounters demands not only a reflection upon practice (and research into practice) but also attention to forms of analysis and representation demanded by the empirical data – from shared attentions and communications, to the socio-economic and cultural context in which the assessment is

conducted and all the subtle and even more obvious forms in which we perform the ‘how’ of human being in relation to others.

Mainstream psychology rejected Freudian attempts to investigate an individual’s inner experience (following the Clark Lectures, Harris, 2010; Billington, 2017), some psychologists having done so on scientific grounds, others resisting on account of ethical concerns, aware of the potential dangers posed by government (Parker, 1992). It is important to remember, however, the scientific error made whenever we ignore James’s dictum:

Psychology is the science of mental life, both of its phenomena and of their conditions...*the faculty* [mind] *does not exist absolutely, but works under conditions; and the quest of the conditions* becomes the psychologist’s most interesting task.
(James 2010: 1 & 2 [orig.1890]).

It is argued that it is possible to perform psychological assessments in ways which ignore both those *inner* experiences which were the subject of Freud’s speculations (now being explored again by contemporary neuroscience) and also the *conditions* for our human being and experience contemplated by James. In the process of assessment it can be tempting for the psychologist to rely exclusively on positivist principles of testing, quantification and generalizability although such methods invariably disappoint in their search for accurate evocations of individual persons existing “absolutely”.

The plurality of psychological science envisaged by James (2010 [orig. 1890]) had been overwhelmed at the beginning of the twentieth century by the desire of psychologists who, having been tantalised by the prospect of isolating individuals as the subject of inquiry, were to become increasingly frustrated by the impenetrability of that same human subject.

Epistemologies and forms of reductionist representation inculcated during practitioner training have tended in the past to be underpinned by statistically-saturated models of persons which construct, not scientific absolutes but numerically-infused representations of non-persons which are placed only in relation to representations of other non-persons. The associated processes of classification then produce diagnostically-inclined approximations, chimera when attempts are made to map them simplistically onto the lives and experiences of individual persons (for detailed critiques see, for example, Fanon 1952; Kuhn 1962; Feyerabend 1975; Latour 1979; Gilligan 1985; Hollway 1989; Danziger 1990; Parker 2005; Burman 2017 [orig. 1994]; Hacking 2002; Sugarman 2009; Packer 2011). In my experience, professionals associated with family courts, whether from a legal, health, social care or psychological background, are highly committed to protect young people from damaging situations. In many cases, however, a young person's manner of presentation comes to the attention of services in forms which too often remain stuck in that diagnostic attitude (DoH 2015). While courts can accept the transient nature of the various categories, any temporary diagnostic clarity achieved, however illusory (Hacking 1985), can become a touchstone upon which courts can build their decision-making with greater confidence in order to protect the young person from circumstances which might more usefully or accurately be described as distressing or even terrifying.

What diagnostic accounts risk, of course, is to distribute representations which, in creating "kinds of persons" (Hacking, 1997) fail to accommodate the actual living person. At worst, diagnostics situate the young person within narratives in which s/he actually comes to create the diagnosis of which is spoken, immersed in narrative constructions which are embedded in processes of "classificatory looping" (Hacking 1995). That is to say, a prevailing diagnostic account of the person risks that the young person themselves will begin to believe such

(deficit) accounts of their personhood and perhaps subtly imbibe, accentuate or assume the characteristics of the attributed diagnosis. Diagnostic accounts are underdeveloped theoretically and empirically in relation to issues of representation and are frequently inadequate to account for the complex conditions or contexts in which the individual person is situated. That categories and diagnoses can at times provide useful narratives is not challenged and there will be occasions in practice when their application will be helpful, however, diagnostic accounts can be worryingly incomplete within psychological assessment processes.

It is argued further that a primary focus on diagnosis can too easily serve to restrict any potentiality of an individual young person through an overwhelming deployment of representations which are synonymous with dis-abling discourses of deficit (Goodley 2014; Goodley and Runswick-Cole 2012). The dangers of such a limited epistemological palette for any science of the person are again being recognized in neuroscience (Damasio 1994; Choudhury and Slaby eds. 2012) while social constructionists remind us that as psychologists we do not merely respond to something already in existence, rather through our engagement we choose either to reify old constructs or to create new “kinds” (narratives) of person (Burr, 2003). This again is not to deny individuals’ experiences of themselves but to assert that *while psychological diagnoses are not mere fictions...they are narratives which provide incomplete and potentially misleading accounts of the person.*

4. Researching practice: The search for method

While much professional training in psychology is based ultimately on assumptions as to the primacy of quantitative and positivist epistemologies, the case study has become established as an important resource in teaching and training (Petersen 1990; Mayo, 2004). Despite the

long association of case study methodology with psychoanalytic research professional bodies remain active users of case study methodology, for example when articulating policy implications and providing advice to the public (GMC, 2013; BPS, 2017). In training programmes trainees can be presented with case studies of individuals in order to encourage the development of reflective and potentially reflexive practices (Billington, 2000) while qualitative researchers too have long recognized the value of the case study, whether anonymised, fictionalized or simulated (Ziv, Wolpe, Small and Glick, 2003; Mills, Durepros and Wiebe, eds. 2013, Kara, 2013; Cole, 2013). Complex issues relating to representation can potentially remain unacknowledged in practice settings, however, with words frequently left to speak for themselves although what case study methodologies invariably hold in common, whether for research or training purposes, is that their representations take overtly narrative forms.

Narrative methods are not in themselves a guarantor of ethical practice which will necessarily avoid the risk of harm to young people since it is through narrative that pathologies are circulated and through narrative that analyses of power and politicized discourse can be concealed. The study and application of narrative methodologies, however, has been increasingly potent within social science research during the last thirty years (Polkinghorne 1988; Riessman 1993; Clandinin and Connelly 2000; Crossley 2000). Its importance extends across and beyond the social sciences, for example, from sociology (Richardson 1990) to philosophy (Kearney 2002), even energy science (Moezzi, Janda and Rotmman eds., 2017) and is considered by some to constitute perhaps the defining characteristic of human being, “The chief characteristic of the specifically human life...is that it is always full of events which ultimately can be told as a story...” (Arendt 1958: 72).

While the problematics of language and representation have been the focus of a politically informed critical psychology (Foucault 1970, Parker, 1992; Walkerdine ed. 2002) as well as by a developmental psychology informed by feminist critique and deconstruction (Burman 1997, 2017 [orig. 1994]; Wetherell and Edley 1999; Bird, 1999), Jerome Bruner was one of the first psychologists to realise the importance of a narrative psychology which focusses not only on issues of power and representation but on the pervasive story-telling function in daily lives:

Insofar as we account for our own actions and for the human events that occur around us principally in terms of narrative, story, drama, it is conceivable that our sensitivity to narrative provides the major link between our sense of self and our sense of others in the social world around us (Bruner 1990: 94).

The suggestion here is that at a fundamental level people make sense of their lives by “narrativising their experiences, telling stories both to themselves and others, not just through their words but through their actions too” (Billington 2000: 37), a function from which our professional identity and authority as psychologists offer no respite. The work of the psychologist, from the reading of the court papers, to the performance of the assessment and through to the eventual report-writing itself constitutes a flow of narrative-making.

The stories we tell as psychologists are not just about the young person, parent or carer, however, since the psychologist too is actively involved and so we lose sight of our own story at our peril. I argue, therefore, that in order to be more confidently “reflective” (FJC/BPS 2016) the exchanges or encounters between psychologist and young person should be seen as part of that story-telling, a dynamic process producing data which enable the psychologist to

reflect on the scientific and ethical issues at stake within assessments. A focus on the encounter enables reflections upon the kinds of narratives which might be more likely to avoid harm and support even potentially transformative accounts for the young person. The following five “how” (as opposed to “what”) questions are proposed, firstly, as criteria for developing assessment narratives with young people in which we seek to reflect on the scientific formulations we construct and secondly, as criteria for research and analysis into those professional practices (again, as narratives):

- how do we speak of young people?
- how do we speak with young people?
- how do we write of young people?
- how do we listen young people?
- how do listen to ourselves when [when working with young people]?

(derived from Billington 2006: 8).

Each of these questions can be deployed in order to 1) provide a template for research into professional practices; 2) provide a means of managing the data / narratives generated in the encounter or wider family proceedings; 3) support potentially transformational representations. The questions enable the psychologist to attune to aspects of the person which lie beyond any category, diagnosis or deficit narrative in demanding a more active reflection upon experiential responses to the individual client / young person and even open a space in which s/he might themselves wish to contribute.

In constructing narratives about young people which can attend to those issues of *relationality, experience and representation*, however, it can be easy to perform solely in a

manner which accords with what Bruner refers to as “narrative diachronicity” (1991: 6) (see also de Saussure, 1983, [1916]; Giacalone Ramat, Mauri and Molinelli, eds. 2013). Such forms tend only to focus on the sequential aspects of narrative (along the diachronic axis) which risks obscuring the phenomena of experience occurring inside the synchronic or vertical linguistic axis. While narratives provide a means of representing the sequence or chain of events along the temporal, diachronic axis there is a risk that a preoccupation with the merely chronological obscures the experiential phenomena living within the moment of synchrony (which Lacan referred to as the “metaphoric axis”, Lacan, 1977; Billington, 1995). It is in this way that any narrative does not merely possess a beginning, middle and end point (i.e. along a linear plane) for there are phenomena occurring inside moments of time which can be of particular significance or in some way replete with meanings or profound experience.

Whether utilizing concepts and narratives associated with the diachronic (metonymic) or synchronic (metaphoric) axes; whether utilizing psychoanalytic concepts of displacement and condensation (Frosh, 1987); or even considering assemblages and rhizomes (Deleuze and Guattari, 1987) there is a shared recognition of a dilemma posed by models of a Cartesian scientific rationalism i.e. how to make sense of the moment. Interpretive Phenomenological Analysis (Smith, Flowers and Larkin, 2009) constitutes a further potential response to this dilemma while the “temporary affective unsettledness” experienced by practitioners in “liminal hotspots” (Motzkau and Clinch, 2017: 270) are a more recent attempt to articulate moments of potential “suspension” or transition.

The fictional vignette below models the five “how” questions above by constructing various fictionalized pasts in order to demonstrate ways in which the psychologist can demonstrably reflect on their ontological choices based on experience of the encounter. Eventually, the analysis in section 5 (of “Mo”) settles on a narrative designed to allow reflection on its potential implications both for the young person and the psychologist by focusing on a particular moment of synchrony or “hotspot”. The purpose of employing such means of analysis during assessments would be to enable the psychologist potentially to reduce the risk of harm by recognizing the potential significance of the moment. A focus on the moment of synchrony or “hotspot” might allow the psychologist to develop alternative representations to diagnostic or deficit narratives and perhaps support the young person’s attempts to make sense of their own history of (abusive) experiences within a coherent “preferred” narrative (White, 1989) of potential transformation.

5. Mo

In the following fictional vignette, it is argued that psychology’s epistemological preoccupation with the category and diagnosis will not in this case be in Mo’s best interests and could actually result in direct harm to him. Not only might diagnoses fuel representations of Mo from which he would have no escape but they might also not take into account evidence of the complex “conditions” for human experience and relationality, articulated by William James, to which he will have been subjected. Diagnosis, causality and blame can be invoked in assessment processes which, it could be argued, are battles for narrative supremacy. In the case of Mo, what would become the authoritative diagnosis, defining representation or narrative at a crucial moment in his life?

Mo and his sisters had been taken into care following a judgment made by the court (in the form of a “Finding of Fact”) that they had suffered significant harm initially on account of them having been constantly presented by the father to medical and other agencies for years with what eventually transpired to be insufficient cause. As a result of countless investigations, Mo had acquired diagnoses of Attention Deficit Hyperactivity Disorder and Autism Spectrum Condition as well as learning difficulties, all received from what would have been highly regarded and competent professionals. As well as subjecting his son to what were later deemed unnecessary investigations, the father had also made allegations against Mo, the most serious of which was that he had physically abused his siblings. Again, the court, through the “Finding of Fact” (FoF) decided on the balance of probability that Mo had committed no such acts and that the father had been lying. Following a period in care a psychological assessment of the children was instructed by the court in order that the various diagnoses could be re-considered and recommendations made relating to future provision for Mo, his brother and his sister, for example, concerning where they might live, how their family relationships might be constituted, schooling and the nature of any therapeutic intervention.

The volume of data in such a case would be massive, amounting perhaps to thousands of pages organized eventually into a comprehensive “bundle” of court orders and other legal documents, reports from all the various agencies involved including education, health and social services (school staff, doctors, health visitors, social and family support workers), the police as well as many other Statements of evidence gathered over the years, for example, from parents, relatives or carers. Such papers might range from the purely administrative and procedural to the authoritative or descriptive which in this case would be graphic in their forensic exposure of incidents in the young person’s life. There would probably be a dispute

between all the “parties” i.e. legal representatives for the mother, for the father, for the children and for the local children’s services who will have instigated the proceedings. The Judge would in such a matter have issued a FoF following weeks of deliberation during which s/he would have considered all the above documentation together with the evidence of those witnesses who had been subjected to cross-examination under oath. That the decision (FoF) would have been made by a Judge rather than a jury is not of concern here but whatever opinion the psychologist might form when reading documentation, the assessment would have to be planned and executed initially on the basis of the Finding – that Mo and his siblings were deemed on the balance of probability to have suffered significant harm due to the actions of the father. This would be a *prima facie* narrative in respect of which the court would demand an extensive reappraisal of previous investigations, accounts and diagnoses. By the time I would eventually meet the children Mo, his brother and sister would have been in care for some months. In contrast to the dire accounts likely to be found in the initial bundle, however, this vignette has been created in order to represent those matters before the court in which new evidence can emerge to make for more positive reading.

The placement with carers had been such a success that Mo and his siblings had changed across all areas of functioning – behavioural, educational, social – and were by all accounts now enjoying their new lives, at home and in school. While the children had lost the substantial economic wealth of their first home, they had been embraced by a large new family, made new friends, been exposed to new experiences and activities and had evidently begun to present as very different young people from the ones described in earlier documentation.

On the basis of the Findings, while in many respects the damage done both to Mo, his brother and his sister would be life-long, the subsequent more hopeful narrative constructed here is representative of other positive stories which can be found in the child protection / safeguarding system. There are huge problems, of course, and too many tragedies in young people's lives but success is less newsworthy and given the seriousness of the Findings for Mo and his siblings, success in this case (i.e. protection from further harm and abuse) had been achieved. The apparent transformation in the children following a period in care, however, demonstrated success beyond the mere avoidance of harm, for what had been emerging were completely new social behaviours, previously unsuspected capabilities and a range of other potentials.

The many competing narratives in the "bundle" would include accounts of all the earlier procedures and diagnoses, accounts of the abuse suffered by the children and perhaps even the distress suffered by the parents not to mention accounts from other people involved which would typically span the range of human behaviour from horrendous cruelty to acts of selflessness and kindness beyond all expectation or hope. While the psychologist will incorporate evidence derived from observations, interviews and tests obtained during direct work with the young person, the focus in this vignette is on the "how" of being "reflective". This lens enables the gaze to turn to the psychologist-client encounter as a means of endorsing the claim that without consideration of the forms of data that arise during the clinical encounter (i.e. invoking issues of relationality and experience), the science of any assessment would be incomplete. In particular, I reflect on the evidence of some of my own potential psychological and emotional responses, which in this vignette would be experienced during the first few moments of work with Mo.

As I waited in the assessment room I could hear Mo walking down the corridor with his school mentor [identified beforehand by Mo as a trusted ‘neutral’ person] who was giving him gentle re-assurances. Appearing at the door, Mo faltered, quickly averted his gaze, turned his body and for a split second seemed on the verge of running away.

Just a moment in time...of... “synchrony”?...a “liminal hotspot”?...

The mentor was alert and gave Mo further sensitive encouragement while I would also seek to reassure him, providing a chair closest to the door and arranging the seating so he could retain the mentor’s support throughout the session via direct visual contact. To run from the room was still a choice he could make but hopefully Mo might opt merely to escape my gaze and seek the comfort of eye contact with his mentor should he find the session too difficult.

Mo was terrified.

There can be many such moments during assessments demanding of particular attention and many competing narratives too, not least in this narrative, the initial diagnoses and deficit-laden accounts in the original papers which would contrast with the more recent accounts of abilities and potentials. Given that the latest reports were suggesting that Mo was now happy both at school and in his new home his hesitancy when approaching the room and his alarm at the door would prompt a flood of questions, for example:

- just what was Mo frightened of?
- what did he think was about to happen in the assessment session?
- what exactly did he think it would involve?
- who did he imagine this new stranger to be?

- what did he think I might know?
- what did he think this new stranger in his life might say or do?
- might I say things about him similar to previous professionals?
- would I too create narratives of deficits and diagnoses?

These questions provoked articulation of other more self-oriented or reflective questions:

- might I in the very act of this assessment risk taking Mo back in time to occasions prior to going into care when he had been taken by his father to meet innumerable other strangers – medical and other professionals who had then placed him within narratives of diagnosis and categorization?
- might I, as Gradgrind, subjugate Mo yet again to an authoritative account of his person which just did not make sense to him, which would disavow his own personal knowledge and experience and undermine his own recent transformations?

Sensing Mo's terror as he stood at the doorway, the duty of care to him would hopefully have been paramount during those moments when I would struggle to avoid replicating the conditions in which for years he will have suffered psychological and emotional harm i.e. when presented for an array of assessments. Once in the room the distress manifest in his subsequent ocular pleadings to his mentor would compound the sense of his psychological disarray. These would be experiential data of an evidence-based practice which could not be ignored and which would need to be placed at the heart of any reflection and scientific formulation.

The data acquired both experientially and relationally in this situation would allow the psychologist to focus on the harm and distress suffered by Mo. They would stimulate vivid reflections upon the ways in which he had for years been subject to a series of parental actions which he would have found bewildering and which would have caused him to live in fear and confusion for virtually the whole of his conscious existence. To compound his situation and through no fault of his own, Mo would have been force-fed narratives of himself variously as aggressive, abusive and autistic, initially by his parents but subsequently by professionals whose written opinion, in accordance with dominant models of training and practice, would invariably adopt the diagnostic attitude.

As Mo panicked at the doorway did he imagine me to be the next professional who would intervene clumsily to confirm yet again the problems - the psychopathology - of his personhood, leaving him to contemplate and express himself only within the narrative confines of a deficit-laden category i.e. via “classificatory looping” (Hacking 1995)? *That* would have constituted an act of great harm since it had been Mo’s sense of fear that had increasingly been assuaged by the warmth and commitment of carers, school staff and social workers who, working closely together, had been transforming his life.

For by the time of a subsequent report a few months later and almost a year since being taken into care, virtually all Mo’s “difficulties” in learning and behaviour as well as the “symptoms” of his ADHD and autism had, to all intents and purposes disappeared, his life and the life of his siblings transformed by the care and protection, commitment and opportunities provided on a day to day basis over a sustained period of time both in school and at his new home. Mo, his brother and sister were beginning to know the feeling of being safe, physically, psychologically and emotionally.

It would only be a sensitivity to the phenomena of experience and relationality that would permit the psychologist to reflect upon a more ethical but also more scientific framework for representing a living person which in this case would seek in simple practical terms to:

- minimize Mo's distress
- encourage Mo, school staff and his new family to continue with their own "preferred" transformational narratives – of capability and hope
- develop forms of psychological representation in support of those narratives.

6. Coda

In responding to the dearth of research into the conduct of psychological assessments within family courts this primarily theoretical paper has addressed an area of public concern in relation to the governance of (young) persons. Specifically, it has sought to support the work of psychologists who operationalize the recommendation to become "reflective", suggesting further that becoming "reflexive" will facilitate more responsive ontologies for direct work with young persons and thus inform the development of research, training and professional practices. It should be noted that, given the focus on psychological practice, it is not being suggested that young people's difficulties (in this vignette, ADHD, autism, behaviour and learning difficulties) can usually be ameliorated in the way described but the case is argued for general principles that psychologists working with young people, in this case in family courts, need primarily to be able to:

- investigate the science of the *relational* (Gergen 2009) including the inherent reciprocity of the "clinical encounter" between psychologist and client (Katz and Alegria 2009)

- move from the posture of a fixed to a process-oriented model of psychological science (Vygotsky 1978; Motzkau 2011) which is better able to engage with the *experiential* (dynamic) phenomena of actual persons (Luria 1972; Sacks 2015).
- adopt a more systematic and theoretically sensitive approach to issues of language, interpretation and *representation* in professional practice (Bruner 1990; White and Epston 1990; Prilleltensky and Nelson 2005).

That the psychologist is invisible in assessments is an a-scientific sleight-of-hand and the balance to be achieved in formulation through reflective and reflexive practices can better contemplate those complex issues of *relationality*, *experience* and *representation* arising within assessment encounters. Consideration of this balance is especially necessary in order to achieve representations in both research and practice which are able to tolerate something of the person (here, Mo's distress) which might support the work of all those who in England, Wales and beyond are at the heart of child protection legislation and the work of family courts.

The fictional vignette provided the means for analysis of the processes whereby the psychologist might avoid reifying harm by reflections and reflexivity in respect of particular phenomena or (synchronic) moments in time. Whilst in this fictional vignette Mo could not construct his own "preferred narrative", the narratives of any final psychological report could seek to emphasize the care now being provided in his new home and school, for example, and the change and transformation being achieved.

In responding to Harre's call for "qualitative psychology as science" an equilibrium in psychological science can be elusive and it is proposed that research, training and assessment practices need to be vigilant in their performance in order to recognize:

- any absence of specific persons (Billig 2011);
- the intrinsic relationality of human being (Gergen 2009);
- a potential silence in respect of human experience (Damasio 2012);
- the constructionist nature of language and representation (Bruner 1991).

Assessments constitute an intervention and any lack of rigour in application of the above principles, I argue, can render the individual young people with whom psychologists work in family courts at risk of harm, that is, through incomplete representations of qualities and possibilities. While psychological science can reasonably attempt to pinpoint the aetiology of a psychopathology in the present, it should not be allowed unscientifically to constrain the trajectory of a possible future.

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