

**Protecting the Rights of Children in Residential Care
Uncovering a Culture of Abuse**

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Introduction

There is something particularly disturbing about the abuse of children in residential care; it is a phenomenon which makes a mockery of society's good intentions. A broad definition of institutional abuse is any system, programme, policy, procedure or individual interaction with a child in placement that abuses, neglects, or is detrimental to the child's health, safety, or emotional and physical well-being, or in any way exploits or violates the child's basic rights¹. American research into the incidence rates of institutional abuse has consistently highlighted that children in residential facilities are more vulnerable to abuse than those who live in families, and that the under-reporting of abuse incidents within residential settings is a common occurrence². Child abuse of various kinds is common in residential settings, even in well-resourced facilities in the industrialized nations, and often persists for years without detection by the outside world³. In this problem with no known borders, we are all responsible for the safety and well being of the world's children. Through concerted, collaborative efforts, the integrity of resources that serve as a refuge for children can be improved. Preventing unwarranted placements, particularly those driven by poverty, a clear role for government, and the implementation of guidelines, standards of care and monitoring mechanisms are ways of improving quality of care and ensuring the safety of children in need of these resources.

This paper will utilize a case study to highlight the indicators of a culture of abuse as manifested in a residential home for girls. Each indicator is accompanied by several, non-exhaustive, points of assessment. Abuse often results as an interplay of a number of related factors. In this case study, children and female staff were abused and maltreated by an individual in a position of authority. The situation persisted due to the dire need for services and the absence of regular systematic outside scrutiny. Challenges in detecting and reporting maltreatment will be discussed as well as potential State actions and a mechanism for monitoring.

Case Study

Agency Description

This case example is based on the practices of a foreign affiliated, faith-based, social service agency located in a country transitioning to an industrial economy which does not yet have well developed systems to cope with children in need of alternative care. The agency provides a broad range of services such as emergency support, health, and residential care to a network of impoverished urban communities. This organization is an invaluable resource in terms of service provision and its contribution to the local economy as an employer of a substantial number of people. This is a well-resourced agency with the majority of funds obtained from private donors (national and international), the corporate sector and international government and non-government funding sources. The agency provides social services for children not because it initially had the expertise to do so, but because it has claimed the social authority to do so; the adequacy of services provided and the safety of the children in the agency's care are assumed.

The observations in this case study were made in a residential home for girls – one of several residential facilities run by the agency. In the initial years of operation, this resource housed less than five children at a time and followed a family based model of care. Due to changing socio-demographic developments such as urban migration, family breakdown and the influx of migrant workers, the demands for alternative care increased and the number of children in the home quickly grew to 30. Although the number of children increased and their presenting issues and needs were more complex, there was no sufficient increase in the number of staff or staff training.

¹ Gil, E. (1982) Institutional abuse of children in out-of-home-care. In: R.Hanson (ed) Institutional Abuse of Children and Youth. Hawthorn Press: New York

² Barter, C. (2003) Abuse of Children in Residential Care. www.nspcc.org.uk/inform/info_AbuseofChildrenInResidentialCare.asp

³ Tolfree, D. (2003) Strategic Thinking Community Based Care for Separated Children. Save the Children, Sweden.

Part A. Indicators

i. Leadership

The leaders of residential homes are cited as the biggest single influence upon the institution's culture, ethos and practice⁴. It is generally acknowledged that the abuse of children in residential care is a multi-determined phenomenon not to be viewed simply as the acts of one harmful individual⁵. In this example, however, the maltreatment of children, parents and staff flowed from the attitudes and behaviours of the most powerful person in the agency, the director. Before any organization that provides services to children hires a staff member or enrolls a volunteer, that person's qualifications and character must be subjected to careful scrutiny⁶. While insufficient knowledge of children's developmental needs and rights was of concern, it was the character, behaviour and leadership style of the director that was most troubling. Verbal abuse of female staff, children and parents, the use of derogatory language, arbitrary dismissal or removal from the home and 'macho', authoritarian leadership style⁷ are major points of concern. Substance misuse is an issue and contributed to the abusive, erratic and at times, bizarre behaviour of the director. In a service environment of high demand and few resources, this leader was tolerated and dismissed as 'odd', 'a bit strange', 'complicated' and 'eccentric'.

Points of assessment:

1. Do agency leaders conduct themselves in a manner that respects human dignity?
2. Are children held in high regard? How do children perceive the leader?
3. What are the qualifications and character of staff, particularly those in leadership positions?
4. Is substance misuse (addictions) an unresolved issue?

ii. Organizational Structure and the Distribution of Power

The agency is hierarchical in configuration; power flows vertically from top to bottom and is concentrated in the hands of one individual - the agency founder and director. There is an absence of written information regarding agency policy and operational guidelines. There is no board of directors or other such governing body. There is no external monitoring or complaint mechanism. The Agency operates independently of its parent organization, located out of country, and the domestic counterpart; neither body conducts service reviews. Progress reports are submitted to international funders and the agency is subject to occasional pre-arranged site visits. These are, however, superficial processes not aimed at assessing the situation of children in care. The agency is an essentially self-governing entity operating under the direction and unchecked power of a director involved with every aspect of operation, including case management and discipline of the children. In a mutually reinforcing configuration of culture and religion, the agency is run like a family with the director regarded as a father figure responsible for the care and well being of all – children and staff alike.

Points of assessment:

1. Understand the importance of power and how its distribution and management can have a direct impact on the safety of the children in care.
2. Who is the agency accountable to? What formal and informal internal and/or external mechanisms of accountability are in place
3. Does the agency have clear and formal rules of operation such as codes of conduct, policies, procedures and other operating guidelines?

iii. Staff

The children's home was staffed by two and at times three full time female child care workers with varying degrees of training and experience. There was one staff person for every ten children. Staff expressed that while they were able to meet the physical and educational needs of the children, meeting

⁴ Utting, W. (1991) as cited by Barter, C (2003) supra note 2

⁵ Colton, M (2002) as cited by Barter, C (2003) supra note 2

⁶ Restoring Dignity Responding to Child Abuse in Canadian Institutions. Law Commission of Canada (2000). This is an excellent resource focusing on abuse of Aboriginal children in residential care.

⁷ Sundrum (1986) & Thomas (1990) as cited by Barter, C (2003): Stress the central role that leadership styles have on the occurrence of maltreatment. These researchers stress the importance of management holding children in high regard, open communication and setting clear expectations of staff.

emotional and psychological needs were beyond their grasp. There was a high degree of staff turn over due to unsatisfactory working conditions including lack of support and ill treatment from management. Staff would be berated and insulted in front of the children – sending strong messages regarding the respect and treatment of women. Of particular concern was the use of sexually derogatory language towards female staff. If women are subjected to this level of disrespect, they are not safe. If women are not safe, children are not safe.

Points of assessment:

1. What is the degree of staff support and training within the facility?
2. To what extent is staff involved in decision making processes?
3. What is management's attitude and treatment of female staff?

vi. The Children

The children in the home are girls ranging in age from 4 to 17 years. Some children entered care through placement by child welfare authorities. However, the majority were placed voluntarily by families experiencing temporary or permanent difficulties such as the loss of employment, family breakdown, incarceration, injury or health issues related to HIV/AIDS. In some instances, families used placement to secure a higher material quality of life for their children. Poverty was the driving force behind most placements. The provision of moderate support services would have enabled many families to care for their children at home. Of the 30 children in care, three were orphans. Parents retained legal responsibility for their children except in cases when the court appointed or approved another guardian.

In addition to separation from family, friends and community, the children's issues included economic exploitation, physical and sexual abuse, sexual exploitation, developmental disability, family breakdown and loss of family due to HIV/AIDS. The children came from groups and communities that are disadvantaged or marginalized – meaning they are members of a societies most powerless group in terms of a lack of financial resources and political influence; this is a common characteristic of children who end up in care.⁸

Points of assessment:

1. Who are the children in care and why are they placed. Is the placement reflecting children's needs and within their best interest or is it driven by wishes of the family?
2. Is the placement preventable? What options to placement were explored and what role did parents and children (where appropriate) play in the decision making process?
3. Poverty is not a reason for placement. If neglect is cited as a reason for placement, determine if it is material neglect (lack of food, shelter, education or clothing) or emotional neglect.
4. Carefully consider the children in care; understand the increased risk of maltreatment due to the compounded power differential between the children and agency staff based on:
 - a) The position of children in society in general;
 - b) The marginalized status of the children's families affording limited voice/protection if something goes wrong in placement;
 - c) The heightened vulnerability of children who have experienced psychical or sexual abuse⁹; and
 - d) The emotional isolation of all the children who are separated from family and friends.

v. Parents

The extent to which parents are included in decision-making is not known. Treatment and attitude towards parents is an important indicator of what children may be exposed to in care. There was an incident in which a child's mother was treated with gross disrespect – being berated and shouted at in front of her child, other children in the home and agency staff. There were also deliberate efforts on behalf of the agency director to psychologically displace the children's parental figures, specifically the father. In an abuse and manipulation of religious office, this individual attempted to engender a shift in

⁸ Restoring Dignity Responding to Child Abuse in Canadian Institutions. Law Commission of Canada (2000).

⁹ Research shows that adults target children for sexual exploitation who are disconnected from their family networks and who are unhappy, lonely, isolated or feel unwanted. Furthermore, those children who have histories of sexual or physical assaults, or of behavioural difficulties will be at particular risk (Conte 1990, Dobash at al 1993, Colton and Vanstone 1996, MacLoad 1999). Many children in residential care share these characteristics (Barter, 2003) supra note 2 .

the children's perception of him as a figurative father to a literal one. The older children resisted this, stating that the director was not their father and that they already had fathers.

Points of assessment

1. Who are the parents? Recognize the diminished capacity of parents from marginalized groups to protect children should something go wrong in the placement.
2. To what extent are parents involved in placement and service decisions?
3. What is the attitude of agency staff and management towards parents?

vi. Access to Required Services

The agency's philosophy of practice was to provide the children with the basics: food, shelter, clothing, health care and education and to keep them as busy as possible with chores, homework, many fun activities and outings in order for the children to forget their problems. Services for children with disabilities were dependent on staff time and inclination. Staff expressed frustration at being unable to assist the children due to their own limited training and at having their recommendations for psychological support services for the children repeatedly turned down. Through a recent change in status, the organization came under regulations stipulating psychological services for the children in care. In response to this regulation, management sought to retain the services of a therapist who was a 'friend' of the agency who would work with the children on agency property.

Points of Assessment:

1. What is the agency's philosophy of care?
2. Are the children receiving the services they require including psychological assistance and specialized services for children with disabilities? What are the reasons for lack of provision?
3. Is the agency accessing external professional input? Psychological support services should be provided by qualified professionals who are not affiliated with the agency due to the potential for bias, collusion and conflict of interest.

vii. Children's Stories

The management and use of children's stories can be a very public indication of an agency's level of sensitivity to children's needs and respect for their right to privacy. Stories detailing the traumatic experiences of children in care were shared with or without consent of children or parents for the purposes of raising awareness and generating funds for agency services. The children themselves were publicly identified and at times misidentified as street children although this was not their experience. Children were asked to share their stories to help other children in similar circumstances. The agency's restriction on access to psychological services meant children shared their stories with no prior or post therapeutic support. While the agency's philosophy of practice aimed to repress children's experiences, the actual practice was that children had to revisit their trauma as it suited agency purposes. In this setting, children experienced objectification and the exploitation of their painful experiences.

Points of assessment

1. If the agency publicises children's experiences, determine what is being shared, how it is being shared, where it is being shared, who does the sharing and for what purpose.
2. Determine how the children feel about telling their story or having their story told.
3. Is there an aspect of revenue generation or personal/professional gain in sharing the experiences of children in care?
4. How children's experiences are shared, managed or at times manipulated can indicate the presence of objectification and exploitative practice. The presence of objectification is a significant indicator regarding vulnerability to abuse within the facility.

viii. Family Reunification

While some children had regular, albeit infrequent, contact with their families, for others contact with family diminished over time. In the absence of planning, short-term placements lapsed into long-term and even permanent ones. Children, whose families utilized the resource as a sort of boarding house, would return home for extended visits with their families once or twice per year. Of grave concern, however, is the practice of not allowing children to return home when the family situation had improved and parents requested to have their children back. False allegations regarding parental intentions put forth

by the agency director was the reason behind this practice. In such instances, staff, risking the loss of employment and/or maltreatment, resorted to subversive measures in order to reunite children with their families.

Points of assessment

1. What is the extent and frequency of contact children have with their family (where appropriate)?
2. What plans are in place and what steps are taken to reunite children with their families?
3. What is the degree of family reunification?
4. Is there a monetary advantage for the agency to retain children in care?

ix. Forms of Discipline

Staff in the home handled discipline. However, the agency director also played a significant role in the administration of discipline. These methods, which included shame and humiliation, were forms of emotional and psychological abuse. Staff disclosed an incident in which a young child was subjected to what can only be described as cruelty – with her experiences of being sexually assaulted used to denigrate and demonize her in front of all the children in the home.

Points of assessment

1. What forms of discipline are used and who is responsible for disciplining the children?
2. Does staff understand what constitutes physical, sexual, emotional and psychological abuse?

x. The Appearance of Openness

The agency has a high profile and is well regarded within the community and while it appeared to be open and very accessible to the public, it is in fact a closed institution. Children attend school within the community but this was the extent of their mixing with other children outside of the home. The agency's various programs are open to visits from the public including donors and representative from aid agencies. The girls' home receives a steady stream of visitors and volunteers. These visitors and volunteer, however, are not from the community, but are foreign nationals. The irony is that while volunteers had extensive and frequent contact with the children and even lived in the home, language proficiency and the lack of knowledge regarding children's developmental needs and human rights diminished their capacity to grasp what was happening within the home, thereby neutralizing their protective capacity for the children.

There was a culture of secrecy operating within the girls' home. Children were instructed by management not to tell anyone what went on inside the home. Disclosing the particulars of disciplinary lectures given by the director, for example, was strictly prohibited. Children obeyed this directive. However, the children, through simply stating that they were told not to talk about what happened in the home, revealed the culture of secrecy. It is known that some forms of abuse, specifically sexual abuse, are highly dependent on secrecy that can be actively maintained by manipulation, threats and intimidation. As such, secrecy in a residential setting should be treated with immediate attention.

Points of assessment

1. Is the agency open or closed?
2. If the agency appears to be open, how open is it and who is it open to?
3. Are children instructed to keep events in the home secret? Recognize that secrecy is a characteristic of abusive cultures and operates to shield violations and maintain power relations.

Part B. Challenges

i. The Ability to See

It is difficult to reconcile the deficiencies in practice with the many good works of the agency. Contact with the agency left many with a sense of disquiet. Objectivity is required for due processes, however, the gut feeling that something is amiss, should not be disregarded. The lack of knowledge regarding children's developmental needs, human rights and types of abuse are factors which impede the ability to accurately discern the nature of a facility. Anyone working with children, volunteers included, should be trained in these areas.

ii. Dilemmas in Reporting

The true extent of the abuse in this resource is not known. Given that there were no known systems in place to handle complaints regarding residential resources, those with concerns grappled with a number of ethical dilemmas:

- 1) Who was the agency accountable to? The immediate affiliate was known to handle issues of misconduct by making decisions in the best interest of the institution in terms of public perception and maintenance of reputation, not in the best interest of children's safety and well being.
- 2) To what public body could a report be made with the assurance that the situation would be handled constructively and not be reduced to scandal?
- 3) How could the situation be handled so as not to endanger the children, staff or the reporter? The fact that the perpetrator was the agency founder and director and could not be easily removed added a significant level of complexity.
- 4) How could the situation be resolved without destroying the agency in the process? Would the rights and wishes of the children be respected during the investigation process?

Lack of confidence in the efficacy of an investigation and fears regarding the agency's demise set up a false dichotomy of choosing to sacrifice the well being of some children for the benefit of many others. Fears about the adverse consequences of reporting institutional abuse can create a powerful barrier for professionals, children and families alike. Children and their family members may not disclose abuse out of fear they may be harassed by certain staff members or deprived of needed services¹⁰. In instances where children do make disclosures, guidelines will have to be in place to ensure their safety and well being during the investigation process. Perhaps a public body sensitive to the needs of children and created to advance and protect children's interests and rights, such as an Office of the Children's Advocate or Children's Commissioner, could be the recipient and investigator of complaints.

Part C. States' Role in Prevention and Regulating Separation

Governments must take responsibility and have clearly defined roles in protecting children in out of home care. The actions taken must be proactive and responsive and could include:

- a. Legislation governing the establishment and management of all residential resources (public, private, domestic and foreign) must be developed and enforced.
- b. All agencies providing residential care must be registered and State authorized.
- c. Standards regarding the quality and safety of out-of-home care facilities must be supported by child protection legislation.
- d. All residential facilities are subject to monitoring and quality assurance audits at State, not agency, discretion.
- e. Raise public awareness regarding the nature and reality of maltreatment in residential facilities. This may help to break down the misconception that residential facilities provide better care than the child's own parents and therefore their working methods should not be questioned.
- f. Take care with operational definitions of neglect which can discriminate against poor families
- g. Reprioritize placement from first option to last option. This will help to ensure facilities are not overburdened and can provide care for children who need it. Decisions to remove children from parental care are often made without attempts to support parents in their primary role¹¹. Many placements could be prevented if the family received even minimal support¹². Carefully screen residential placements and provide facilities and support agencies to develop family support initiatives.
- h. Some privately run facilities, such as the agency in the case study, are well funded and can afford to help support children in the home. Require well-resourced agencies to contribute a percentage of their funds to supporting in-home-care and developing family support initiatives.

¹⁰ Law Commission of Canada (2000) *supra* note 8. For an overview of preventative strategies and investigating disclosures see p. 347 – 381.

¹¹ Improving Protection for Children Without Parental Care A Call for International Standards, 2004

¹² Tolfree, D.K. (2003) Strategic Thinking Community Based Care for Separated Children. Save the Children Sweden

- i. Develop independent monitoring and complaint mechanisms such as an ombudsman or children's commissioner to ensure the safety of all reporters, particularly children. Mechanisms should be sensitive to input from children and families in terms of how the matter should be handled.

International Partners

We are all responsible for the well being of the world's children. The agency in the case study is well resourced and receives funds from external sources including development agencies and a vast pool of private donors. For funders such as development agencies, lack of due diligence can lead to unwitting complicity with substandard practices. Even if government funds are used for non-operational expenditures such as buildings, if the agency in receipt of the funds is responsible for the care of children, should not the practices of that agency, in terms of the safety and appropriate provision of services for the children in care, be of critical interest? Although a funded project may not be directly connected with the children in care, will citizens consider this when they come to learn that their tax dollars, as designated by their government, were used to support an agency responsible for the abuse and maltreatment of children? International funders need to recognize the considerable influence they can exert in the development, enforcement and adherence to standards which ensure that out of home care is of the type and quality that corresponds to the rights and specific needs of children in care. Such initiatives may include:

- a. Making the disbursement of funds dependent on agency's demonstrated safety and the respect for children's human rights and developmental needs.
- b. Stipulate agency adherence to established government standards for safety and work only with agencies that operate under systems of regulation and monitoring.
- c. In the absence of government standards, support initiatives to develop guidelines and standards for safety.
- d. Designate a percentage of disbursed funds for family support initiatives and quality assurance projects.
- e. Raise public awareness. Many citizens contribute to out of country agencies working with children. Informed citizens can make inquiries and demand improvements in the standards of care for agencies they contribute to.

Part D. Monitoring

The need for monitoring is imperative as it opens institutions to systematic outside scrutiny and functions to decrease the isolation of children in care. Monitoring is a State responsibility and may be administered by an independent body such a Children's Commissioner. Monitors require specialized training and work respectfully and collaboratively with residential facilities to:

- a. Ensure the safety and well being of children in care and certify that agency practices are in tuned with the needs and rights of children.
- b. Determine if standards of care, policies, procedures, regulations and other administrative safeguards are being respected.
- c. Educate children, parents, staff and management regarding child rights and how to assert them, personal safety, forms of abuse, how to establish appropriate operational procedures and so on.
- d. Support agencies to develop good practices and access training and other resources. The objective is to help agencies provide the best possible care.

The monitor is open regarding the process and objectives of the work being done and speaks directly to what constitutes inappropriate practice. While yearly or quarterly audits may suffice for some agencies, this is insufficient for agencies where abusive practices are hidden and entrenched. Although some indicators can be detected with one or two agency visits, others can only be detected over time. The detection of the culture of abuse described in the case study was possible because the observer:

- a. Had consistent contact with the agency over a sustained period of time.
- b. Was able to establish trusting and supportive relationships with the children and staff .
- c. Had strong knowledge of children's developmental needs and human rights.
- d. Was trained to recognize signs of every type of abuse.

A case management model is recommended as frequent and consistent contact is necessary. Facades will show deterioration over time and frequent contact builds familiarity, enables relationship building and the formation of trust. Establishing a trusting relationship is essential, especially if there is a culture of

secrecy in operation. Frequency also helps to dispel negative messages children and staff may have received from management regarding the monitors character and intentions. For agencies with a cluster of indicators, contact should be on a monthly basis until the agency situation demonstrates sustained improvement.

Concluding Remarks

It is possible that the agency described in this paper is an anomaly. However, chances are this is not the case. In the rush to deal with the large scale challenges, simple solutions are often embraced and critical follow up is often forgotten. With growing economic disparity, continuously emerging armed conflicts, natural disasters and the ongoing crisis of HIV/AIDS, the number of children in need of out-of-home care can be expected to increase and with it, a calling for urgent action. Many such children reside in countries where there is an absence of well developed systems to cope with the needs for alternative care. Ensuring the adequacy of residential care arrangements will require collaborative efforts. NGO's, development agencies and faith-based organizations play vital roles in filling the need for care and will be essential partners in any such efforts.

Respecting the rights of children is an evolving process and we are all at different levels of understanding. We know that children have the right to safety, security and development. We also know that children have the right to a family. The hope is that this submission will help people to see and motivate us all to action. May our collective efforts make the respect for human rights and dignity a reality for all children.

Respectfully,

Jacqueline Ramdatt