From procedural child rights education to a relational child rights-based practice model

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Abstract

Children's rights are often operationalised in administrative and procedural ways, particularly in child welfare and residential services contexts. In this article, a group of five authors representing academics and alumni from Ryerson University's Child & Youth Care programme who are also people from care present a dialogue process surrounding lived experiences of rights education processes while in care. The dialogue is complemented with a review of child rights education material used by child welfare agencies in Ontario, Canada as tools to explain rights to children and youth admitted into care. We conclude that a child rights-based practice model is necessary in which rights and daily life are fully integrated.

Keywords

Child rights, child welfare, residential care, child rights education, lived experience, Canada

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We are writing this paper to offer a unique perspective on child rights education for young people involved in child welfare services, such as residential care and treatment, foster care, or kinship care. Their human rights exist inherently by virtue of being human (United Nations (UN), 1989, 1993). It is the duty of the state and the responsibilities of adults in children's lives to respect and uphold them (UN, 1989). As Collins (2019, p. 5) suggests, rights provide for a common language, and they can inform 'attitudes, behaviours and actions' of young people and the adults/professionals in their lives. A meaningful approach to operationalising child and youth rights can furthermore contribute to a growing sense of autonomy and civic participation on the part of young people.

Our perspective is formed through a collective process of knowledge generation involving the five authors, of whom one is a child rights scholar, one is a practitioner and scholar focused on residential care and treatment, and three are former youth from care who have now achieved at least undergraduate degrees in child and youth care practice. The paper is the outcome of a dialogue amongst the authors and a careful analysis of child rights materials and procedures used by child welfare agencies in Ontario to inform young people in care of the state of their rights (and often their responsibilities).

Below, we seek to capture the core themes of our dialogue as a group of authors differently situated and with different experiences in relation to our analysis of the materials used to inform young people of their rights while in care of the state. We had requested these materials directly from the 49 Children's Aid Societies in Ontario, and we received materials from 16 of them. Materials included booklets, pamphlets, one-page posters, as well as more policy and procedure-type documents explaining the process used to inform young people of their rights.

Context

Our evolving perspective on a relational child rights-based practice model relies on the substance and intentions of the UN Convention on the Rights of the Child (CRC; 1989), the UN Committee on the Rights of the Child (2003), as well as the

Ontario Child, Youth, and Family Services Act, 2017, which provides the local legislative context for child rights in relation to child welfare and youth justice. We acknowledge on the one hand young people's right to know about their rights (CRC 1989, article 42; Jerome, Emerson, Lundy & Orr, 2015; Collins, 2019) and on the other hand, the enormous evidence of system failures with respect to upholding child rights in child welfare (Gharabaghi, Trocmé, & Newman, 2016; PACY, 2016a, 2016b). We also acknowledge that in Ontario, and indeed across Canada, discussions about child rights are inherently tainted by the systemic racism and oppression imposed on Indigenous, Black, LGBTQ2s+ and Disability communities in particular (Truth and Reconciliation Commission, 2015; Fruja Amthor, 2017; Pon, Gosine, & Phillips, 2011). We do, however, want to celebrate the excellent work done by young people themselves (supported by the Provincial Advocate for Children and Youth (PACY)): Feathers of Hope (PACY, 2016c), an action plan with Indigenous young people; Hairstory (PACY, 2019), providing a platform for Black young people in the care system; and 'We have something to say' (PACY, 2016b), to facilitate young people with disabilities to speak out and advance change.

The current procedures related to child rights education in residential care in Ontario are, for us, anything but relational. Child rights are explained to young people admitted to residential care by the admitting staff during the intake process, when young people are often already overwhelmed with paperwork and the anxieties that come with transitioning into residential care. The process usually includes a pamphlet that is given to the young person. As per legislative requirements, child rights are then reviewed using a standard template every 30 days, often incorporated into Plan of Care sessions. There are no workshops or group-based sessions dealing with child rights offered to young people (or to staff, for that matter). The purpose of this process is to meet legislative and regulatory requirements rather than meaningful engagement with young people about their rights.

For us, a relational child rights-based model is congruent with the core characteristics of a child and youth care approach, articulated explicitly by Garfat, Freeman, Gharabaghi & Fulcher (2018), and represented in the work of

both Canadian and Scottish practitioner-scholars such as Gharabaghi (2019), Smith, Fulcher and Doran (2013), and Steckley & Smith (2011). It is an approach to child rights education that is consistent with the principles of life-space practice, relational practices, and strength-based practices that draw on the voices and autonomy of young people as subjects rather than objects. This is commensurate with principles of social pedagogy, and in the specific context of child rights, it is compatible with Petrie's (2013, p. 7) argument that 'pedagogy builds on an understanding of children's rights that is not limited to procedural matters or legislated requirements'.

Our goal, ultimately, is to ensure that the experiences of young people in state care are at the centre of our approaches to 'making child rights real and meaningful'. We reject procedural approaches that meet standards established in distant places but fail to engage young people in precisely those things that matter most to them, including the one thing they cannot be robbed of – their rights. While rights can be and have been violated and withheld, they cannot be negated.

Methodology and approach (in brief)

Our methodology is centred around a process of tying a dialogue that brings together research, practice and lived experience to the aesthetic of child rights education material and procedures in operationalizing child rights education. The 2019 Care Experienced Conference in the UK also highlighted the importance of rights in a key message and that those who experienced care 'are not always being told what they are'. We were impressed by the positive response from Children's Aid Societies to our request for their materials; indeed, our first finding, even before fully engaging our methods, was that the child welfare sector in Ontario is eager to improve child rights education and has an awareness of the inadequacies of procedural approaches. This is positive and presents opportunities for the future.

Our process of dialogue with our co-authors relied upon pre-existing relationships in this subject area. Together we agreed on the rules of respecting confidentiality and respecting the narrative of each co-author as it was shared.

We chose not to impose a particular method of dialogue in order to meet each co-author where they were at (Garfat et al. 2018). The themes were developed iteratively based on multiple dialogic pauses – during these pauses, themes were discussed outside of the dialogue circle to offer an element of informality to an otherwise formal process. Our approach to validation, therefore, focused on abiding by best practices in maintaining integrity and credibility in qualitative research (Noble & Smith, 2015), including: 1) we reduced researcher bias by ensuring multiple perspectives were heard within the diverse research team; 2) we included 'rich and thick verbatim descriptions of participants' accounts' (p. 35); 3) we invited respondent validation by ensuring all co-authors whose lived experiences are shared here had ample opportunity to reflect on the accuracy of the narrative; and 4) we aimed to demonstrate 'clarity in terms of thought processes during data analysis and subsequent interpretations' (p. 35).

Below we present the overarching themes of our dialogue first, followed by our analysis of the materials and procedures, and finally we return to our dialogue to present our perspective on moving forward differently.

The dialogue: Opening act

Our dialogue started through an expression of lived experience:

> My experience with having my rights read… was obnoxious. I had
> a significant number of booklets that were given to me every
> time I met someone new, went to a new event or moved. I found
> the interaction around it very annoying and would often just walk
> away as I got older. It was very repetitive (person from care,
> retrospective).

It became clear quickly that the themes of repetition and constant exchange of booklets corresponded to the experiences of the other authors in their various roles - practice, research and additional lived experiences. More themes quickly became apparent. The tying of rights to responsibilities was noted in particular as destructive and threatening. One of our co-authors spoke in depth about how the use of a rights and responsibilities booklet confused their understanding of

rights with that of responsibilities making them seem conditional rather than something entitled to as a human being. Here we were able to contextualise the relationship of rights and responsibilities using the research of Howe & Covell (2010):

> When children are encouraged to think critically, to reflect on the meaning of rights, they quickly discover the conceptual linkage between rights and responsibilities. If, then, we wish to fully respect the rights of the child and to raise socially responsible children, we must allay our fears and dispel the myths that undermine appropriate children's rights education. A focus on responsibilities does not promote responsibility in children. A focus on rights does (p. 101).

Furthermore, the theme of empathy repeatedly emerged in our dialogue. In the words of one of the authors:

> It was difficult for me to fully understand or process what my rights were, as my transition into care was traumatic. Imagine being ripped away from your loved ones by force and the world that you have known has been turned upside down… and at that moment you have a stranger showing a lack of empathy trying to explain what your 'rights' are, on a piece of paper that you have to sign off on, while that person disregarding your emotional state. … This created a trauma response every time my rights were explained to me, associated with the lack of empathy I received while transitioning into care (person from care, retrospective).

This observation highlights how children's rights are not only legally and administratively important but also linked to the healing process and how procedural efforts can undo that process.

At this stage, we wanted to check our dialogue against the aesthetic of the child rights education materials we had received from Children's Aid Societies as well as the procedures forwarded.

A brief analysis of the materials

The materials collected from Children's Aid Societies reflect well-intended ways of engaging the interests and curiosity of young people as evidenced by the choices of format for written materials (large print, pictures, text boxes, one example of a colouring book for young children, etc.), the language used to describe rights (accessible and diverse language based on variable skills pursuant to age or literacy), and the medium through which knowledge about rights are transmitted (posters, brochures, booklets, some online formats). In spite of these efforts, we are able to identify at least four aesthetic features that require further thought:

Volume – the materials range from short, single page, poster-like presentations to 60-page narratives and often quite dense text. Either extreme of these variations seems unlikely to be engaged by young people.

Visual effects – much of the material we reviewed offers visual representations of people, institutions, processes and rights, including highlighted text that captures a particularly important message, such as: 'YOU HAVE THE RIGHT TO BE HEARD!' There are also efforts to depict photographs of young people of different races and ethnicities. These visual effects are unrepresentative of the real-life experiences and circumstances of the young people. There are no visual representations of group homes, special education classes, or courtrooms or of routines and everyday life experiences that are acutely relevant to young people, such as food consumption, physical restraints, or a lack of private space. In other words, there are no visual representations of the kinds of problems and experiences that might lead a young person to invoke his, her or their rights.

Examples – none of the materials we reviewed provides any examples of a rights resolution process initiated and completed by a young person. What is

entirely missing from the materials is any example of young people who fought for their rights and won. How did they do that? What were their experiences? Can other young people who want advice on how to proceed with resolving their specific situation contact them?

Youth-driven 'class action initiatives' – the representation of rights is entirely framed within individual contexts. For young people concerned about their rights, there are no representations of group actions, collective strength or shared concerns (Magalheis, Calheiros, & Costa, 2016). This seems particularly critical in the context of the systemic racism experiences of Black and Indigenous Youth in child welfare.

The review of materials designed to 'educate' young people about their rights very much supported the themes emerging from our dialogue. A booklet, no matter how clever in its design, simply cannot bring to life how rights function in everyday life.

A rights-based practice model is ultimately not about learning in the form of knowledge exchange, but instead it is about experiential learning within the context of relational structures. This is particularly critical in the context of racist institutional patterns, where Black and Indigenous young people are under much greater surveillance that what is experienced by other young people, and their responsibilities (to peers and staff) are enforced much more vigorously (Paradis, n.d.; Roberts, 2014; Edwards, 2016).

The dialogue: Second act

Our dialogue then focused on the procedural aspects of child rights education in child welfare, and quickly led us to contemplating a move from procedure to real time relational process. Again, we were led in our dialogue by an opening statement from one of the authors with lived experience, responding specifically to the impact of being asked to sign off on having their rights explained to them:

> Initially, this caused me to refuse to sign off on the required
> documents that verify that my worker has explained my rights to

me and that I understood them. Thus, my workers often bribed me to sign the required documents they needed, creating the perception that they were more concerned about getting their documents completed than my wellbeing, as there were no efforts to ensure that my rights were actually being upheld. These so-called rights were nonbinding (person from care, retrospective).

Based on our analysis of the materials we reviewed, it is clear that procedurally, emphasis is placed on a thorough review of rights at the admission into care stage, which layers on top of an already charged emotional experience a need for young people to focus on very detailed and as of yet not relatable information about their rights. Ironically, given the often limited voice young people have in the context of coming into care in the first place (Percy-Smith & Dalrymple, 2018), or in the context of placement decisions more generally (Epstein et al., 2015), sitting through a standardised presentation of their rights that highlights the importance of their voice (but also their responsibilities) seems hardly congruent with the process that landed the young people in their current context.

Our dialogue assumed a life-space perspective, where one can take advantage of the everyday opportunities to explore the connections between rights and the rituals, routines, and interactions in both foster care and residential care settings (Gharabaghi & Stuart, 2013a; 2013b). Scheduling a review of rights at regular intervals disconnects those rights from the life-space. It 'others' rights, and encourages young people to understand the meaning of rights as outside of their daily experience with respect to food, school, rules, inclusion, and other factors.

Our co-authors with lived experience highlight the importance of a shift to a relational approach characterised by dialogue between the young person and someone they trust, seeking out the appropriate time, in an engaging manner, suited to the young person's needs and comprehension level. Activities that present situations to the youth, and allow them to practice negotiating, or acting in a manner of advocacy helps ensure youth understand how to operationalie their rights. The context of engagement must be safe enough to ensure that

young people can contest their rights through regular opportunities to discuss such things without consequence or fear of reprimand.

Our dialogue then developed five questions that may help to situate child rights education in a relational context (Garfat, 2008; Freeman & Garfat, 2014):

1. Is this the right time and context to explicitly talk with a young person about rights?

2. Are we talking about rights as an abstract idea or as a real-life process?

3. Do I, as the worker, have a relational connection with the young person that would allow for dialogue and discussion rather than information and knowledge transmission?

4. Is the way in which I am discussing rights with the young person sufficiently geared toward the lived experiences of this young person, including their (racial and gender) identities, their social network, their spiritual orientation, and the anxieties they might hold with respect to their living context, their family context, and their Plan of Care? In addition, am I taking into account any unique learning needs and supports they may require, to comprehend their rights (e.g., young people with intellectual disability diagnoses or unique learning needs, such as autism)?

5. Am I ensuring that other professionals involved in the young person's life are aware of and able to operationalise the rights perspective I am sharing with the young person? Are direct care-givers involved in this process?

In essence, there needs to be a shift that centralises young people and considers their social location, to ensure that young people are able to explore their rights in a meaningful and effective way that is unique to them. This approach avoids generalisations and starts with care. The professional responsible for exploring with the young person their rights must be invested in the young person to establish a positive rapport. The goal of this 'real time' process is to not merely educate young people on their rights while in care, but to 'coach' young people on conversing, debating and operationalising these rights right now, right here.

The dialogue: Third act

In this part of our dialogue, we focused on negotiating rights conflicts, informed once again by an opening statement reflecting the lived experience of one of our authors:

> I was informed if I decided to contest my rights or address them, then I would be removed and placed in a new home. I was living in a stable care arrangement and was terrified to be moved elsewhere (person from care, retrospective).

One legislated element of the dissemination of rights in the child welfare system is the articulation of a complaint procedure (UN Committee, 2012; Ontario's *Child, Youth and Family Services* Act, 2017). All of the complaint procedures that we were able to review based on the materials submitted by Children's Aid Societies were well articulated and represent a reasonable level of procedural transparency. They are characterised by a sequential process of moving through organisational hierarchies of decision-making and authority, and ultimately having recourse to outside entities such as an ombudsperson. We also acknowledged, however, that the characterisation of negotiating rights as a 'complaint process' renders the agency of the young person in behavioural terms, which may sabotage a relational process from the start. Using research knowledge emanating from our analysis of the materials we received, reflections on practice and the lived experience within our group, we arrived at three key observations about complaint processes:

First, they place enormous burden on young people to articulate their complaints well and to *a priori* take account of additional factors that may be pertinent to the particular circumstance of the complaint. As such, the complaint procedures become differentially relevant to young people based on their language skills, their intellectual capacity, their access to information, and their pre-existing relationships with individuals involved at various stages in the process. Moreover, none of these procedures explicitly take account of already existing power and structural inequities, stereotyping and discrimination, such that Black Youth, Indigenous Youth, gender-non-conforming youth, or youth otherwise

impacted by chronic power imbalances and structural oppression, are significantly disadvantaged.

Second, the experiences of young people engaging a complaint procedure, as well as the outcomes of complaint processes, are nowhere documented in ways that young people themselves have access to such documentation. This means that the procedure itself is unaccountable; young people are asked to trust that if they follow the procedure, they will be treated fairly and their voices will be heard. There is very little evidence to suggest that young people hold such trust particularly with respect to 'demand-processes' (processes where young people place a demand on their service provider, such as the resolution of a complaint).

Third, complaint procedures are entirely individualised. This means that these procedures explicitly negate opportunities for power imbalance mitigation, and instead perpetuate such power imbalances by pitting young people as individuals against staff teams and agency personnel as a collective.

Complaint procedures are an essential component of a rights-based approach to providing service. In developing such procedures, however, more attention needs to be given to mitigating the power differentials between institutional procedures and young people. As one of our co-authors highlighted, rights debates tend to occur when parents and/or staff are in disagreement with the young person and it becomes an emotional power struggle rather than productive and thoughtful dialogue. Complaints should not be translated into an assessment of behaviours, nor should young people's assertion of their rights be interpreted as a threat to adult authority.

The final act and recommendations

Nearly 30 years ago, Michael Durrant (1993) described the opportunities embedded in young people's activism within a residential setting (in Australia) in the context of a 'living room strike' reminiscent of the Occupy Movement on the part of young people that ultimately was resolved in dialogic engagement with the staff over a period of several days. True to that description, we know from research in international jurisdictions that the interface of children's rights and

professional practice is not always smooth, as Darkwah and his colleagues (2018) discovered in the context of residential care in Ghana, and Olafsen and her colleagues (2018) discovered in the context of Uganda. Within our dialogue group, we came to the conclusion that child rights education is doomed from the start without engaging young people in relational processes that centre their everyday experiences and connect these to the exploration of rights. This means that notwithstanding the enormous efforts to produce child rights education materials on the part of service providers, such efforts cannot yield meaningful outcomes if they are operationalised procedurally. From the perspective of young people in care, talking about rights is deeply connected to the theme of power. Procedural approaches centre power within those structures that own the procedure, while young people are left to conform and comply. Change in this dynamic will require all of the usual elements of training, youth engagement and an increased role for youth participation, but beyond that, it also will require mitigation strategies for the imbalance of power inherently embedded across all of our systems and in services and professionals and practitioners. The focus in social pedagogy on human agency, autonomy, and on rendering young people as subjects, as opposed to objects, may well provide a helpful framework for rethinking institutional power imbalances. Beyond social pedagogy per se, the ongoing theoretical exploration about an 'ethic of care', as Mark Smith (2008) has argued, 'requires a stepping in to encounters with the other rather than a stepping back into a rational and objective position where professionals distance themselves from those with whom they work by mean of rules and procedures' (p. 230).

We wondered, for example, about the potential impact of having a dedicated adult working in partnership with youth to assist with mitigation of power imbalances while negotiating rights conflicts. While such an approach could be helpful as a transition to a rights-based approach, the end goal must be the full integration of rights into relational practice, rather than reliance upon a dedicated position, since this would reintroduce and even affirm procedural and policy-driven aspects to child rights.

Our arguments in this paper are not framed as critiques of agency practices. Children's Aid Societies across Ontario have invested significant energy, creativity and resources in developing their approaches to child rights education. We believe that the priority is not getting the process right, and should emphasise making the process meaningful (Garfat, 2004). As one co-author outlined, 'I strongly believe that, if my rights were presented to me in a more meaningful way, it would've helped me navigate my personal life and navigation through the child welfare system more effectively' (person from care, retrospective).

In short, we believe that relational child rights education has been underutilised in its capacity to improve the way child welfare services generally and residential services in particular are delivered and the impacts such services can have on the well-being of young people in care. As we continue to work in our group of persons from care and scholars, our next step will be to define more concretely how we might operationalise a child rights-based approach in the everyday context of residential services.

Acknowledgements

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Shannon Cherry has been working with children and youth for nearly two decades across a variety of sectors, including child welfare, youth justice and education. Her love and passion for CYC has led her to pursue her master's in Child and Youth Care, where she has focused her attention to understanding barriers to high school graduation, looking at innovative ways to support young people in/from care.

Richard Marcano is a child and youth worker, who is in his final year of the CYC program at Ryerson. To date he has many accomplishments while working in the field. Richard is the president of a non-profit named HairStory, which aims to elevate the voices of Black youth in Ontario's systems of care. He finds fulfilment

in moments when youth are influencing others through their bravery to believe in their value, their purpose, and their ability to impact the world and make change rooted in love.