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# Editorial

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Welcome to *SJRCC* Volume 18, Number 1, the first of four issues planned in 2019. In this issue we provide the usual varied selection of peer-reviewed articles, commentaries and book reviews.

Later this year the world will be marking the 30<sup>th</sup> anniversary of the adoption by the United Nations of the Charter on the Rights of the Child. While the UK ratified the UNCRC in 1991, its provisions remain to be incorporated into domestic law. In Scotland, the Commissioner for Children and Young People, Bruce Adamson, a highly respected legal expert on children's rights, has expressed concern at the delay in confirmation by the Scottish Government that the Charter will be incorporated into Scots Law in the current Scottish parliamentary session. Writing to the Minister for Children and Young People, Adamson expressed concern: 'that 6 months on from the Programme for Government commitment, there has yet to be a clear outline of timescales for the consultation on models of incorporation, or indeed of a legislative timetable'. The Commissioner noted in his letter that a draft Bill exists, drawn up by his office in collaboration with Together (the Scottish Alliance for Children's Rights). As well as making provision for full incorporation of the Preamble, the Charter, and Optional Protocols, the draft Bill includes provision for a Children's Rights Scheme setting out the arrangements for the incorporation of the CRC in Scotland, and for its review every three years. The full statement by the Commissioner and the draft Bill are available [here](#).

The Scottish Parliament is currently scrutinising the Children (Equal Protection from Assault) (Scotland) Bill draft legislation, very much in the spirit of the UNCRC. If passed, the effect would be to remove the defence of 'justifiable

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assault' (dating from 2003) and the older common law defence of 'reasonable chastisement' that can be advanced by a parent of a child under the age of 16 in distinguishing the use of physical punishment as a method of discipline from common assault. CELCIS fully supports the Bill and interested readers can read CELCIS's response to the public consultation written by Lizzie Morton [here](#), and a discussion of the potential impact of the proposed legislation by Louise Hill [here](#). Hill argues that evidence from countries which have enacted similar legislation: 'suggests that legal reform accelerates the decline in use of physical punishment, further decreasing the risk that services will be overwhelmed as physical punishment becomes less prevalent'. Much of the public discussion in relation to the Bill has centred on a concern that parents risk being criminalised for 'smacking' children in ways that may have been widely regarded as acceptable in the past. A typical example given is seeking to prevent a child from putting fingers into an electrical socket by delivering a slap to the back of the hand. Critics of the Bill point out that the existing law allows no defence in the case of shaking a child, a blow to the head or the use of an implement to strike a child. Supporters of the Bill cite the UNCRC as the source of the child's right to equality, arguing that legislation is required to set down a marker about the unacceptability of violence in society, and point out that 58 countries have now passed similar laws. But, in an article in the *Sunday National* on 7 April 2009, the law lecturer and writer Andrew Tickell – who admits he finds the idea of smacking a child 'deeply upsetting – warns against thinking it is possible to enact a law which removes the defence of 'justifiable assault', while simultaneously believing this will not result in criminalising parents who run foul of the law. In his article, Tickell says: 'This confusion is just the latest symptom of treating criminal laws as tools to "send messages"' quietly ignoring their practical implications'. As someone who supports the aim of proposed legislation, and who responded to this effect to the consultation, I have to say that Tickell's warning gave me pause for thought. What do the readers of *SJRCC* think? Do you have direct experience of similar legislation in another country?

Turning to the current issue: in the first of two peer-reviewed articles, Angela Evans writes about the taboo of love for children in care. The author, a child and adolescent psychotherapist, observes that 'love is not a central theme in the

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care system, despite its direct relevance to children who have not experienced adequate love in crucial developmental months and years' and concludes that to 'reach loving feelings, children and young people with developmental trauma need to work through hatred and love in therapy, and they need adults who care for them to help them to know and accept love by overcoming their barriers against it'.

The second peer-reviewed article in this issue, *Youth Engagement and Participation in a Child and Youth Care Context*, is co-authored by Canadian-based researchers Lindsay Sinclair, Melissa Vieira and Vanessa Zufelt. Noting that young people in care experience barriers to engagement, they argue that: 'Positive youth engagement is achieved when young people are seen as experts in their own lives and are engaged as primary stakeholders in their own plan-of-care meetings'.

The first of three shorter articles, by Melissa Hunt, is a reflection on the legacy of Lord Kilbrandon in the present-day Children's Hearing System. In the second article, Kiran Modi and Kakul Hai explain their use of awareness of Adverse Childhood Experiences (ACE) in Udayan Care's children's centres in India. Through the medium of two case studies, they describe the impact of adverse experiences on childhood and how it shaped the children's lives. In the third article, clinical psychologist Shona Quinn outlines how residential school staff built their own model 'to define the features of a care environment that allows a child to feel safe enough to begin to heal'. Quinn says that: 'Fundamental to this model, and taking on board the importance of cultural factors along with practice factors, is that *everyone* within the environment needs to experience what it feels like to be safe, to have relationships, to experience emotional containment and to build their skills and resilience'.

Finally, in this issue, we have two book reviews. Robert Porter reviews *Children, Autonomy and the Courts* by Aoife Daly, and finds he is impressed. 'The book is engaging and easy to comprehend throughout, while presenting a persuasive argument for the next step in the realisation of children's rights'. Mike Findlay reviews *ACEs in the Shadows: Understanding Adverse Childhood Experiences*

by A Survivor, 'in part a guidance and introduction to the concept of ACEs and current public thinking around the topic, and in part an autobiographical account of someone with real life experience of ACEs and their consequences over a lifetime'.

We hope you enjoy this issue, and particularly the facility to download the entire issue as a single pdf file. Please share with colleagues and use your preferred social media channels to engage with the contents.

The *SJRCC* will be back in June with a special issue to coincide with the 20th anniversary Scottish Institute of Residential Child Care conference. Happy reading.