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Repair

CLIVE BALDWIN

Introduction

In terms of positioning theory (Harré and van Langenhove, 1999), a person who has lost a contest may be said to have been forcibly positioned as a ‘loser.’ This threat to social identity requires some repair. Narrators may then tell stories in which they re-position themselves and other actors—collaborators, judges, publics—in new plots (“the real story”) that exonerate them and repair their threatened social identities. This narrative positioning of the other is also a reflexive positioning of the self, and comprises a careful crafting of one’s persona.” (Schrauf, 2000, p.127)

Much has been written about the construction of identity through narrative (see, for example, Taylor, 1989; Ricoeur 1991). For the most part, the narrative construction of identity is deemed to be positive, an act capable of overcoming difficulty and, indeed, trauma. The construction of a working narrative is, it is said, able to help us make sense of the world and our place in it. Nelson (2001) calls this narrative repair, an activity by which we can counter the meta-narratives that damage our identities.

In this paper I want to explore the limits of narrative repair following unreliable allegations of child abuse. While I will focus here on a single case, from previous research (Baldwin, 2000) it is evident that this case is not unique.

The Case of P,C & S¹

In 1998 Rochdale Social Services, under the directorship of Ian Davey, removed the child, S, from hospital, shortly after birth, on an Emergency Protection Order. The Local Authority (LA) suspected the mother of having

¹ While in this paper I am primarily concerned with the domestic hearings I draw on the documentation submitted to the European Court of Human Rights (ECHR) and so in the interests of consistency the European case citation will be used throughout.

harmed a previous child by the administration of laxatives in order to seek medical attention (Munchausen syndrome by proxy [MSbP] abuse). In the following eight months, the social workers, Carol McCrystal and Thelma Kennedy, continued to work up the case against the mother through social work, psychiatric and expert reports and in 1999 the case was heard at the High Court. The mother, a US citizen married to a British man, was forced to represent herself following the withdrawal of her legal counsel and Justice Wall's refusal of a request for a two week extension to seek new representation. Following a five week hearing, Justice Wall ruled that S was at risk if she remained with the parents and granted both a care order and a freeing order allowing the child to be placed for adoption with strangers. He also refused leave to appeal.

The mother, again unrepresented, made application for leave to appeal to the Appeal Court but this was refused by Justices Thorpe and Roch. The parents then sought representation to take their argument to the European Court of Human Rights (ECHR) on the grounds that the Human Rights Act had been breached: that is, the domestic proceedings were unfair due to lack of legal representation (article 6) and that their right to family life had been violated (article 8).

Although Rochdale LA were aware of the ECHR application and had been asked not to continue with the adoption until the case was heard, S was adopted out prior to the hearings. In 2002, the ECHR ruled that the domestic proceedings had indeed violated articles six and eight of the Human Rights Act with regard to the parents, and, importantly, violated article eight with regard to the child whom the proceedings were supposedly protecting. They strongly criticised Rochdale LA for their actions, stating that the child had been removed 'without relevant or sufficient reason', the action was 'draconian' and 'unnecessary to protect the child' and even went as far as saying that they could not rule out the possibility that the outcome of the domestic hearings might have been different had due process been followed. I have argued elsewhere (Baldwin, 2005) how it is possible to construct a persuasive narrative in the absence of fact, that is, without regard to facts, due process in testing factual claims and the lack of facticity within MSbP theory. While it is not possible to say, at this stage, that the findings of the domestic courts were self-evidently erroneous (and without a re-hearing we may never know), it seems that we are justified in viewing the outcome of the domestic proceedings as, at best, unreliable.

A Narrative Approach to P,C & S

The case of P,C & S is interesting not least for the narrative techniques and tactics used to present a persuasive of narrative of guilt in the absence of fact (see Baldwin, 2005). The focus of this paper, however, is the positioning of the mother as dangerous (and other family members as collusive and/or untrustworthy) and, following the ruling of the ECHR in favour of the parents, the limits of narrative repair.

It is my argument here that the narrative construction of the family, and in particular the mother, as dangerous, collusive and untrustworthy, relied upon a number of insincere acts on the part of professionals (see below for a discussion of professional insincerity²). This insincerity functioned to both strengthen the internal rhetoric of the narrative of the dangerous mother and hinder the development of an alternative identity of innocence. I will make this argument first by addressing the notion of professional insincerity, then by identifying examples of such insincerity and their role in the construction of the mother as dangerous. I will then examine the impact of these acts upon the self-identity of the parents (particularly the mother). In the final section I will explore the limits of narrative repair – in other words, the barriers that the parents have faced in attempting to construct a narrative that does service to their experience and counters the unreliable narrative presented by the LA.

A Note on Professional Insincerity

I do not intend, here, to enter into a philosophical discussion as to the nature of (in)sincerity. Rather I will rely on more common usage of the terms to categorise actions and words as (in)sincere.

Regarding sincerity, Roget's Thesaurus provides (amongst others) the following synonyms:

bona fides, frankness, genuineness, good faith, goodwill, impartiality, justice, openness, probity, reliability, trustworthiness, truthfulness (online at: <http://thesaurus.reference.com/browse/sincerity>)

And synonymous with insincerity, the following:

² I am not suggesting, here, that the LA and/or the Guardian ad Litem (GaL) deliberately sought to remove the child when they knew their allegations were false. Rather, in the pursuit of what they believed sincerely to be true – that the child was at risk – they acted in ways that can be viewed as insincere.

deceitful, deceptive, disingenuous, duplicitous, faithless, false, hypocritical, lying, mendacious, two-faced, unfaithful, untruthful (online at: <http://thesaurus.reference.com/browse/insincerity>)

It is in this context that I present the actions of the LA and Guardian ad Litem (GaL) below, so that the reader can judge for him/herself as to whether they are insincere or not.

It is clear that the rhetoric of sincerity is embedded within professional discourse and institutional organisation. For example, professionals as generally seen benevolent and benign (Ingleby, 1985), proceedings are (officially) inquisitorial, fair and impartial (see, for example, Twining, 1990), professionals guided by codes of ethics (usually including honesty, reliability, open-ness, good faith) and, according to the British Association of Social Work the profession is committed to justice (BASW website, <http://www.basw.co.uk/articles.php?articleId=2&page=2>).

It should also be noted that insincerity is a dangerous tactic – for should one be found out one runs the risk of exposure and one's case failing. (It must be remembered, however, that even if one's insincerity is revealed, exposure can be prevented through silencing and covering up). One has, therefore, to ask why engage in such risky activity?

Professional Insincerity in the Case of P,C & S

It is my contention that numerous examples of professional insincerity can be identified in the case of P,C & S. For example:

- Unsubstantiated allegations about the parents – such as the claim that the mother was potentially violent, the father untrustworthy because he had impersonated a therapist in order to help the mother evade the authorities, that the paternal grandparents were aggressive towards the social workers who removed the child;
- Fabrication of events such as claiming that the mother had, following her refusal to follow medical advice, been rushed to hospital by ambulance thus endangering the baby (There is no evidence whatsoever substantiating this claim); the claim that it was the parish priest who first informed the social services about the mother, when it was the mother's ex-husband; (as determined by the ECHR);
- Failure to check facts when the alleged events were to the detriment of the mother – for example, Carol McCrystal, the social worker in charge of the case, claimed that the mother had made a false report of a house fire. The

source of this information was hearsay, the social worker having received it from the midwife who had apparently heard it from another midwife who had heard it from the mother. Without checking the details with the mother – the obvious starting point in the investigation - the social worker contacted the wrong fire department about the wrong address and, unsurprisingly, found that there was no fire report. McCrystal then reported the incident as having been fabricated by the mother. (Had she checked with the mother, she would have had access to the correct address, the correct fire department and the official fire record and photographs of the fire).

- Hiding and altering documents. For example, the LA hid the first psychiatric report from the parents until a second, more negative report had been procured from another psychiatrist; parts of documents were blanked out so as to hide from the parents the claim that it was the parish priest who had informed the LA (itself a false claim); the refusal to disclose the social work file to the mother or (when she was represented) to her legal team;
- The approach of the LA to the mother's independent expert – unbeknownst to the mother or her legal team – attempting, by doing so, to influence the assessment and thus potentially the outcome.
- The GaL, Deborah McCallum, attempting to enrol the father into colluding with her to deceive the mother into meeting with her; and the GaL's silence with regard to, or support of, the insincere acts on the part of the LA (for example, the house fire, the dramatic ambulance dash, the hiding or altering of documents).³

If there were sufficient evidence to remove the child and put her up for adoption, one has to ask the question as to why it was necessary to engage in these acts of insincerity? What function did these acts serve? It is my contention that such acts served a number of purposes, in terms of constructing an identity for the mother that served the goals of the LA.

First, if accepted, they would strengthen the case by characterising the family as dangerous, collusive and untrustworthy. Thus, it could be argued, the child would not be safe with the family and the required care plan should be for adoption outwith the family. For example, the fabrication of the dramatic

³ It is interesting to note that despite the fact that the GaL, Deborah McCallum, and her legal team were charged with the responsibility of protecting the child's interests, they singularly failed to protect her from the violation of her human rights under article eight of the Human Rights Act, and Justice Wall criticised the GaL for her prejudgement of the case.

ambulance dash served to present the mother as a) endangering her unborn child; b) generating drama in which she was the centre, and c) more closely fitting the profile of the MSbP mother, as found in the literature.

Second, these claims strengthened the rhetoric of the case by enhancing narrative canonicity – that is, by presenting the case as closer to an archetypal case of MSbP than perhaps the facts warranted. For example, false reports of house fires are, according to the literature, typical of a Munchausen's mother. Narrative theory suggests that the more familiar or more canonical a narrative is, the more likely it is to be believed (see, for example, Bruner, 1990; Bennett and Feldman, 1981 on narrative coherence and persuasiveness).

Third, the narrative of dangerousness was kept on track by controlling the framing of the investigation. For example, during the investigations the parents complained to the LA regarding the perceived bias and hostility of the professionals involved. The response of the LA was that such complaints could not be investigated until after the investigation and subsequent proceedings were completed. Thus, the case was allowed to be worked up according to its initial trajectory. Given the subsequent ruling of the ECHR, it would seem that the parents' complaints had some validity and it is not unreasonable to suggest that the investigation and domestic hearings might have been different had their voice been heard initially.

Finally, it hindered the development of an alternative narrative during the proceedings and thus foreclosed on areas of contention in later proceedings. By hindering the development of the narrative of innocence, there was, over time, less narrative space for the mother to re-configure her narrative of innocence. For example, only those aspects raised in the initial hearings were allowed to be heard in the Appeal Court hearings. While the mother attempted to argue that there were new things to be considered, the Appeal Court Justices refused to countenance their admission.

The Impact on Identity

Throughout the domestic proceedings the mother was presented by the LA as manipulative, duplicitous, unreliable, untrustworthy, unco-operative and, above all, dangerous. Indeed, following Justice Wall's unequivocal rejection of their claims that the mother had attempted to harm her unborn child, the LA were forced to argue more strongly that the mother was flawed characterologically as they no longer had recourse to any argument based on actual harm to S. The argument thus focused on how the mother allegedly harmed her previous child and because she was in denial, manipulative and so on, the authorities were unable to work with her. Furthermore, the mother was portrayed as being resistant to intervention and consequently likely to repeat the alleged behaviour; therefore, S could not be protected if left in the mother's

custody. The father, being positioned as deceitful, collusive and naïve to the dangers, also could not be trusted to protect his daughter from his wife, even if, as offered, the parents separated with the mother returning to the United States and both father and mother surrendering their passports.

In addition to presenting the mother in this way, the LA and the domestic courts also undermined the mother's identity in a number of ways. Firstly, by removing the child at birth (despite offers of the parents to be supervised and to enter a residential psychotherapeutic facility for assessment) the LA effectively removed the possibility of developing the relational bonds necessary to construct oneself as a caring, involved parent. Narrative identity is constructed not only through words but also activity and (save for two hours five days a week) the parenting activity required to identify oneself as an active, involved, caring parent was essentially denied to the parents.

Second, our identities are also tied up with the relationships we have with those around us. Family and friends form part of our self-identity and are important supports in maintaining that identity. In the case of P,C & S the domestic courts extracted undertakings from the parents (under threat of contempt of court) not to speak of the case to the press and, more importantly, to certain of their friends. While restrictions on contact with the former may be understandable, restrictions on the latter – and it is important to note here that the LA also wanted the undertakings to include restrictions on the mother talking to her family – effectively removed the mother from people who supported her and who might support her self-identity as someone facing adversity, hostility and the potential loss of her daughter.

In other cases of MSbP, explored elsewhere (Baldwin, 2000) it is clear that there are other impacts upon identity generated by allegations of abuse. Mothers have reported that there were times they found themselves questioning themselves under the pressure of suspicion – thus undermining their previous self-identity as caring, protective mothers – and partners/ spouses/family members being encouraged by the LA to identify the mother as dangerous. While in some cases these pressures on identity prompted the breakdown of marital and other family relationships, in the case of P,C & S attempts to enrol the father in the positioning of the mother as dangerous, failed.⁴

Finally, there was an impact on the mother in terms of her way of considering the world. Following the insincerity perpetrated by the LA (and others) in the domestic proceedings, the mother is highly aware of the possibility of prejudgement or lack of sincerity on the part of professionals or as any illness being suspected of being faked or exaggerated. Aspects of the

⁴ As a side note here, it is worth pointing out that the father also struggled with issues of identity. On the one hand he wished to maintain his identity as a faithful, loyal husband, upholding his marriage vows, but by doing so he risked his identity as father because the LA then presented him as collusive and naïve to the danger presented by his wife.

case against the mother are established in her medical records and these, unqualified by reports of the domestic courts regarding never having harmed or endangered her child or the rulings of the ECHR, follow her round. Consequently, the mother's identity as a reliable informant of her health and illness history is potentially questionable. As a result, the mother is reluctant to seek medical advice when ill, a rational and understandable, if perhaps potentially risky, path to take.

The Limits of Narrative Repair

Narrative repair is the process whereby we counter the damaging effects of meta-narratives that seek to position us in negative or stereotypical ways and that constrain our voice and our actions in engaging with the world. Narrative repair allows us to become both respected agents and morally adequate beings (see Baruch, 1981 for an account of how moral adequacy is established).

In P,C & S we find an unreliable narrative of dangerousness, based on the meta-narrative of MSbP and established through a flawed legal process. This narrative and process was significantly (if not unequivocally) undermined by the findings of the ECHR which, in part, opened the door to narrative repair. From this ruling onwards, it was possible for the mother to construct –not as 'loser' but as victor (see Schrauf, 2000, above)- a narrative in which she had been unjustly treated and to question the legitimacy of the domestic proceedings. However, in attempting to undertake this narrative repair the mother has faced a number of barriers to such repair imposed by the system that promulgated the damage in the first place.

First, although the ECHR ruled that S was removed 'without relevant or sufficient reason' and her removal was 'draconian' and 'unnecessary', S had already been adopted out. Under UK law there is no remedy for this situation – it is not possible to undo this adoption. By not waiting for the outcome of the European proceedings the LA forestalled the possibility of S being returned to her parents and, in so doing, prevented the establishment of identities of engaged motherhood and fatherhood by the parents of S. Thus, until and unless S chooses to find her birth parents, those identities are damaged (and in any case the intervening years are lost).

Second, by continuing to refuse to allow access to social work records, the LA hinder attempts by the parents to put the record straight. Negative (and unsubstantiated) claims regarding the characters of the mother and father remain within the official record, for example, the profiling of the mother in the report of the MSbP expert and the fabricated allegations in the social work reports. Without clear and unambiguous correction, these attempts at character work (Strong, 1979) remain in force. This is important because should S choose to find her birth parents, what is written in official records will form the

basis on which she is counselled and makes her initial judgement of her birth parents.

Third, the parents in this case are still prevented, by threat of contempt proceedings, from discussing the case and from identifying themselves (and thus the child). In other words, whatever narrative repair they attempt must be done privately. Given that identity is social and relational (see, for example, Woodward, 2002), this coercive silencing hinders the potential of narrative repair. Although the events of the case are an important part of who they are, they are unable to live out repaired identities as people who have lost a daughter or whose human rights have been violated by the State, thus setting up a conflict between private and social identities.

Finally, unlike with criminal cases where a re-hearing would occur following an equivalent ruling by the ECHR, no such re-hearing is required in Family Court proceedings. So, although the findings of the domestic proceedings are, at best, unreliable (see above) there is no way of redressing the failings of those proceedings. Thus, at best, the parents are in the position of attempting to establish stable identities in the face of official but unreliable findings.

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