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**Human Rights and Social Justice:
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in Working with Men who have perpetrated Sexual Crime**

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Human Rights and Social Justice:

*Challenges for Social Workers in Working with Men who have
Perpetrated Sexual Crime*

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Abstract:

This article offers a human rights and social justice perspective on social work with men who have perpetrated sexual crime, particularly within the context of child protection work. The article challenges social work practitioners to critically examine their therapeutic practices with this group of service-users, while at the same time working with a social justice and human rights commitment in the interest of families and children. Some of the challenges involved in this work involve the emotionality of the practice as well as the current focus on risk management and people regulation that is increasingly used to measure social work's value. The ethical and practice challenges involved in responding to retrospective disclosures of childhood sexual abuse are also under-theorised. In responding to all of these challenges the place of practice ethics in the interest of promoting the wellbeing and healing of all service-users shall be explored. In focusing on work with men who have perpetrated sexual crime, the needs of victim/survivors are held as the higher context marker to which social workers are ultimately accountable.

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Introduction

Social work promotes social change, problem solving in human relationships, enhanced well-being and the empowerment and liberation of people, by intervening at the points where people interact with their environment (International Federation of Social Workers 2000). Social workers are guided by principles of human rights and social justice in undertaking this work. In this article we explore these principals in relation to the challenges of practicing social work in the area of sexual crime. We begin by offering our perspective on human rights and social justice and how these concepts relate to anti-oppressive social work practice.

Human Rights, Social Justice and Anti-oppressive Practice in Social Work

Human rights refer to basic international accepted standards of absolute liberties, freedoms and protections to which all peoples are entitled by virtue of their humanity (United Nations, 1948; 1993). However, human rights declarations and charters form only part of a discourse of human rights that is constantly being constructed, challenged and re-constructed (Ife, 2008: 151). While there is an elaborate literature on human rights beyond the traditional legal formulations (see Ife, 2008; Wronka, 2008) for our purposes we accept Ife's (2008: 152) argument that for social workers, human rights must be grounded in practice and "it is the relationship between the discursive construction of human rights and the practice of human rights that is critical". There are at least two approaches which are available social workers to go about making this connection: the deductive and the inductive approach (p. 152). The deductive approach starts with an understanding of particular human rights and asks "what does this mean for practice?" The inductive approach starts with the reality of a practice situation and asks what human rights issues are at stake and how can the practice change to respect these (p. 152). Both perspectives will influence a social work human rights praxis, which critically must involve communities, groups and individual service-users. We take the view, following Ife (2008) that social workers therefore must have a clear understanding of human rights, as well as an ability to constantly construct and re-construct a formulation of what human rights are to count, in light of the particular practice experience (p. 151). In in

order to work as a human rights worker each social work practitioner must therefore take an ethical stance that is premised on an ability to reflect critically on universal and structural themes as well as on their practice positioning as they take responsibility and be accountable for the ethical judgements they make.

In relation to social justice we take the view that social justice refers to the principals involved in access, inclusion and equality with regard to social, civil and legal provisions and services, which are based on fairness. However, there are many approaches to the study of social justice and many interpretations of equality and fairness (see Kennedy 2013: 141; Wronka, 2008 and Ife, 2008). These concepts also have long and contested histories. Their applications have both ethical and political dimensions. However, we maintain that social justice is related to equality, to rights and to liberty, and while all inequalities might not be unjust, all unjust inequalities must where possible be eliminated (Commission on Social Justice, 1994). We are also influenced by Reichert (2001:5) who argues that to use the term social justice in any meaningful way within social work, the concept and its operation must also be linked to the clinical practice of social workers. In attempting to strengthen this relationship, Reichert notes that three particular themes are pertinent for social work practice: (1) oppression, and the need to address the unjust use of authority or power over an individual or group; (2) empowerment, and the need to focus on personal and social power structures and how individuals can gain equitable access to services and resources, and (3) a strengths perspective that acknowledges and promotes the strengths and resilience of individuals, families and communities that can otherwise be marginalised through pathologizing practices (Reichert, 2001: 6-7). According to Reichert (2001), the understanding and application of social justice principles within social work practice remains problematic, vague and ill-defined, however, despite the vast theoretical literature on the topic, in part because of the contested understanding of “need” and the changing understandings of “equality”. This is where a human rights perspective becomes significant. The limitations of a social justice perspective can best be remedied by combining a social justice commitment with a human rights imperative by bringing together the discursive understanding of need and equality with an emphasises on basic absolute minimum entitlements and obligations (Reichert, 2001). When social justice is combined with a human rights perspective, and an anti-oppressive commitment is the way, the social work endeavour is indeed a political and a radical one.

Anti-oppressive practice principles form a corner-stone of social work values (Payne 2005, Dominelli, 1998, 2010) and are enshrined in professional association codes of practice and ethics (see for example IASW 2009, 2007; International Federation of Social Work, Code of Ethics 2012). In Ireland, the newly established Social Work Registration Board, under the auspices of CORU, the regulatory body for Health and Social Care professionals, has also re-affirmed social justice and anti-oppressive values and principles as core to professional practice (CORU 2011: 5-6). The Code also emphasises the need for ethical awareness and competence in all that social workers do. In the UK, the newly revised BASW Code of Ethics for Social Work similarly upholds values and principles relating to human rights, social justice and professional integrity (BASW 2012).

Despite these affirmations of ethical principles, the changing nature of social work as a profession has resulted in numerous critical commentaries about the current nature of anti-oppressive or anti-discriminatory practices in general. Examples include Smith and Vanestone's (2002) commentary on the diminishing presence of social justice principles in probation practice; Millar's (2008) analysis of the paradox between anti-oppressive social work discourse in Britain and the un-conducive socio-political context surrounding its use; Sakamoto and Pitner's (2005) discussion on the limitations of and ambiguities within current anti-oppressive perspectives; Wilson and Beresford's (2000: 553) analysis of current anti-oppressive practices' potential for "expert appropriation of (service) users knowledge and experiences"; and Dominelli's (1996, 2010) pessimism that globalization, market forces and postmodern conditions are "leading to the demise of the autonomous, reflective practitioner, creating instead, a fragmented, de-professionalized service that is poorly placed to meet the requirements of anti-oppressive practice" (Dominelli 1996: 153). More recently Rush and Keenan (2013:15) and Singh and Cowden (2009:492) cogently encourage social workers to view themselves as transformative intellectuals who uncover, confront and resist free-market or residual welfare ideologies that label people with totalising identities and, citing Giroux (1988) they suggest that social workers must not succumb to power, but should engage in uncovering, confronting and resisting oppressive power structures and practices.

Social workers who work from a social justice, human rights and anti-oppressive imperative will inevitably meet ethical and social and political complexities, which must be resolved through ethical judgement, as competing demands, limited resources and vested interests are engaged. These judgement challenges are heightened for workers who work in an area of

social life where rights holders and rights violators co-exist in the same individual, within the broader dynamics of the same case and exist in the same area of clinical and social practice. This is very much the case for workers in the area of sexual trauma, sexual crime and child protection.

Social Work, Sexual Crime and Working with Men

While social work has a long history of providing therapeutic and support services to children and families, several academics have argued how ambivalent British and Irish social workers are at engaging effectively with fathers and men, often to the detriment of good and effective outcomes for families (Fahey and Field, 2008, Ferguson and Hogan, 2004; Featherstone, et al 2007, 2010). In addition, while social work has a long history of engaging with child protection issues in relation to the neglect, physical and sexual abuse of children, social workers are seen to have a marginal and insufficient engagement with males with regard to child protection and child and family wellbeing (Ferguson and Hogan, 2004, Featherstone, Rivett and Scourfield, 2007; Featherstone et al., 2010). This seems to be especially so if the male in the family is the person who has perpetrated the abuse. With few exceptions (see for example Keenan, 2012; 2011, Scourfield, 2003, Ferguson and Hogan, 2004, Featherstone et al., 2010) the social work profession in Ireland and in other jurisdictions has left the work of engaging with men or fathers who have perpetrated sexual crime, to the Probation Service, if a criminal conviction is secured, and to the disciplines of forensic psychology, psychotherapy and forensic psychiatry. This is a limitation of the social work commitment in the 21st century, as sexual trauma and sexual abuse have very firmly come onto the social agenda. The abuse perpetrators are an integral part of the system that needs to be worked with by the social work professionals.

Are social workers slow to engage with men and in particular with men's violence or abuse because of the emotional and social complexities involved in holding children and adults, victims and offenders in the same therapeutic space, with the ethical, legal, emotional and social challenges that such work involves? Has the criminal justice matrix controlled, disciplined and marginalised social work as a profession, especially social work within the criminal justice system, and subjected it to political agendas that are premised on managing risk as the new way forward (Garland, 2001)? Following Ferguson and Hogan (2004: 3), do the occupational cultures and institutional norms in which social workers practice, combined with personal biographies and the construction of parenting and gender, influence the limited

direct involvement that the social work profession has with men and especially with the problematic consequences of men's violence, as it impacts on women, children and on the men themselves? What is the role of professional training in counteracting or enabling this situation?

Social Work, Multi-Contextual Practice and Sexual Crime

People who have experienced sexual trauma and abuse and those who have perpetrated sexual abuse regularly present to social work practitioners across a wide range of mandated and voluntary practice contexts. The sexual trauma or sexual offending may not be the key presenting problem but can often emerge in the context of the other work. What happens to social work practice when the brief to explicitly address the sexual trauma or offending falls outside the specific agency remit, or is deflected as being outside of the area of competence of social work by the workers themselves? For example, what happens for a victim-survivor of sexual abuse who discloses abuse perpetration when involved in therapeutic work in a mental health or addiction facility? What happens in a child protection service when the mother of an abused child discloses for the first time that she too experienced sexual abuse in childhood by her father who is still living? Which part of the client's life in the above scenarios is to be the primary focus of the social work intervention – the victim-survivor, the offender, management of risk or something else entirely, such as public or child protection priorities? How do social work practitioners resolve these practice dilemmas in determining what is to be the priority of the work, especially when a sexual crime is involved?

Apart from addressing the reporting duties that such cases obligate, we suggest that the usual practice response of referral of the case or aspects of it to an additional professional or agency represents an inadequate social work response to these service-users. We suggest that carving up the psychic or social life of a service-user represents a deficient response from social workers who work with a social justice and human rights imperative. Such scenarios arise across the entire spectrum of social work settings; mental health, addiction, homelessness, child protection, medical and primary care and probation services but are rarely debated in the literature and rendered invisible by lack of debate. Is there not an obligation on service providers and social work educators to support and train social workers to engage with the whole person in his or her personal and social context, even if his or her life includes a history of sexual trauma or sexual violence?

Apart from the practice challenges of gaining legitimacy to engage with service-users in cases involving the diverse and complex needs emerging in the aftermath of sexual crime, social workers who do manage to work with such individuals are challenged in their attempts to retain a social justice and anti-oppressive perspective, as the profession becomes increasingly susceptible to a host of new technologies of managerialism, monitoring, assessment and evaluation (Parton 1994:30; 2003). In a practice era that is profoundly subjected to the audience of regulation, the management of people and the regulation of their lives are increasingly seen as the outcome that is used to measure social work's value and worth (Harris 2008:676). In this context, social work allows itself to be pushed in the direction of "narrower approaches to practice" (p. 676), with serious consequences for the service-users who come to be our clients. The challenge for social workers in such scenarios and in general is to remain vigilant for the "self-disciplining and self-regulatory processes involved in professional work" and "to address the social relations of power embedded in professional practices" especially in relation to the client-worker relationship (Pease 2002:135).

A second practice challenge for social workers in working with cases that involve both perpetrators and victim/survivors of sexual crime relates to the emotionality of the work and the problems associated with working in an area in which there are few simple answers and many complex emotions (Hugman 2003, Howe 2008). Such complex emotion work cannot be done without good professional support and an ethos of self-care. Excellent teamwork, a shared ethos, collegiality and professional supervision, particularly where sexual abuse and child protection issues are interconnected, are also part of the infrastructural architecture that such work requires. In addition, a dedication by social work educators towards adequate preparation of social work students for such challenging and complex practice must be part of this social work commitment.

Human Rights and Social Justice Dilemmas in Working with Victims-Survivors of Sexual Abuse

The sexual abuse of children in Ireland has been described as "the gravest and most systemic human rights violations in the history of this State" (Holohan 2011: 7). At a practice level however, increased knowledge and training in therapeutic interventions with children and with victim/survivors of sexual crime has brought a renewed non-pathologizing focus to this

work in a manner that increases outcomes for abuse victims and survivors (see One in Four, 2013). At a policy level however, Holohan (2011) argues that the abuse of children in Ireland's residential institutions and the handling of such abuse allegations by both the Irish Catholic Church and a number of state agencies must be seen as a violation of international human rights law, in which a number of statutory and non-statutory agencies were complicit (Holohan 2011: 17; Government Publications, 2005; Government Publications, 2009a; Government Publications, 2009b and Government Publications, 2010).

Holohan's (2011) analysis provides five key findings which have implications for social work policy and practice. First, the lack of a clear understanding and acceptance of what it means to be responsible and accountable facilitated the unrestricted and continued abuse of children. Second, the law did not protect all members of society equally. This involved a variety of legal status inequalities such as the experience by children who were placed in residential institutions and labelled as deviant, delinquent and criminalised when compared to the majority of perpetrators who have not even to date been held accountable (Holohan 2011: 392). The ambivalence of civil society towards child poverty (Powell et al., 2012) in what Smith (2007) terms "the architecture of containment" is also seen as part of the social context that enabled such abuses (Powell et al, 2012: 15; Holohan, 2011).

Third, children's rights were not protected during the relevant period in Ireland's history (Holohan 2011); a situation that has changed with a recent Irish Referendum that has enshrined independent rights for the child in the Irish Constitution for the first time, (The Referendum Commission, 2012; The Thirty-First Amendment of the Constitution (Children) Bill, 2012.) Fourth, disbelief of the testimony of victims for long periods of Ireland's past indicates that "wider societal attitudes had a significant role to play in allowing abuse to continue" (Holohan 2011: 400). Finally, the State, like the law, did not operate on behalf of all of its citizens but was swayed by powerful interest groups. "In some ways the relationship between the religious orders and the State became representative of what is known as 'agency capture', whereby a regulatory body is effectively controlled by the body it is supposed to regulate" (Holohan 2011: 402). From a human rights perspective, Holohan (2011: 17) concludes that the State, its agencies and their agents, had a part to play in creating the climate in which the abuse of these children became possible. The State and all of its agencies and agents, of which social workers are a part, have fundamental obligations to respect, protect and fulfil the human rights of all of its citizens (Holohan 2011: 45-46), especially as

different groups become vulnerable and marginalized in line with social and political relations of power.

Human Rights and Social Justice Dilemmas in Working with Sex Offenders

Turning now to men who have perpetrated sexual crime, a number of human rights and social justice concerns have been highlighted in the academic literature in recent years. Birgden and Cucolo (2011) suggest that there is a current emphasis on community protection over almost most other considerations in penal and criminal justice policy in the United States, and that this concern is not confined to the United States. According to Ward et al. (2007:196) international legislative and policy changes in the U.S. and U.K., underpinned by public safety agendas, have significantly led to the increased use of imprisonment rather than rehabilitation for offenders in general. Garland (2001) has developed this argument at length in his culture of control thesis, suggesting the emergence of a shift away from the more traditional rehabilitative focus of penal policy towards more control and incapacitation of offenders. This development is also accompanied by the politicisation of crime and crime control and an increased managerial focus in the criminal justice system (Garland, 2001:167-192). Ward et al. (2007:196) and Ward (2009) maintain that this transition has led to ethical shortcomings involving “harsh and disproportionate punishment” and denial of offender rights, which is especially so for men who have perpetrated sexual offences (see also Keenan, 2011, Prescott and Levenson, 2010). According to Ward’s analysis, “liberty rights, privacy rights and health and well-being rights” for sex offenders are being curtailed (2007: 196).

Birgden and Cucolo (2011) argue further that even recent approaches to therapeutic treatment for men who have perpetrated sexual offences are overlaid with a community protection and community rights orientation, to the detriment of the rights and needs of the individual. In what they classify as “*treatment-as-management*” the new emphasis in treatment is on managing sex offender “risk” rather than rehabilitating the offender, as was the case in the more traditional “*treatment-as-rehabilitation*” approaches (Birgden and Cucolo (2011: 296). “Treatment-as-management” is further criticised for invoking coercive risk management strategies, such as some forms of cognitive behavioural treatment which aim to “recondition thoughts, feelings, and behaviours” and for the array of incapacitation measures that are currently *en vogue*, such as sex offender registers, community notification, residence restrictions, and civil commitments (Birgden and Cucolo 2011:299). Such incapacitation strategies are intended to make the public safer by increasing public awareness of where sex

offenders work, study, and live. However, they often have detrimental unintended consequences that appear to amount to violations of offenders' human rights. Civil Commitment laws in the U.S., which allow for the indefinite incarceration of deemed "dangerous" and "personality disordered" sex offenders until their risk of reoffending is considered reduced, represents "the antithesis of respect for human rights and represent ineffective and unethical professional practice" (Birgden and Cucolo, 2011:304; Keenan, 2011). Similar policies are increasingly finding favour across Europe as the management of risk and prioritised public protection is the new focus of concern. For Birgden and Cucolo (2011:303) the "treatment-as-management" approach has also anti-therapeutic consequences for offenders, such as shame, depression and anxiety, unemployment, homelessness and disconnection from social supports; all of which serve to increase the risk of reoffending. They conclude that such approaches to sex offender management is punitive, lacks social science evidence, and disregards human rights in violating the right to privacy, family and home, freedom of movement and liberty, and physical safety and integrity.

Against such a policy and practice background is Glaser's (2003) warning that placing too much weight on the community's interests might breach the treatment rules of various ethical professional codes concerning beneficence (benefiting the client), non-maleficence (doing no harm to the client), and autonomy (respecting client self-determination). This warning has an important resonance for social work practitioners who practice in the area of child protection and offender treatment. In relation to therapeutic work with men who have perpetrated sexual offences, Glaser (2012a: 329) is also concerned about the risk of therapists imposing their own values and attitudes on clients, and about false claims that harmful interventions, such as mentioned above, are justified by their benefit for offenders. In such circumstances practitioners "sacrifice ... many traditional principles of mental health ethics, such as the therapist's obligation to give primacy to the client's interest and the therapist's duties to maintain confidentiality, use non-coercive treatment and offer a choice of therapies" in following the espoused agency practice guidelines (Glaser 2010b: 261). In making this sacrifice, it is maintained that practitioners breach traditional ethics codes and the ethical codes of some of their professional associations. These processes may involve experiences of "dis-juncture", defined as ethical stress when one's values, beliefs and practice behaviours are in conflict (Fenton 2011) specifically between personal practitioner values and social work's re-configured aims (Canton 2007). Gregory (2006) suggests that one way that practitioners respond to this tension is by resisting dominant agency punitive managerialism

through discretionary practice, but this causes stress for workers. In Ireland, the new Code of Professional Conduct and Ethics for Social Workers (CORU 2011: 5) is explicit in addressing this dilemma, asserting:

If there is a conflict between this Code of Professional Conduct and Ethics and a registrant's work environment, the registrant's obligation is to the Code.

The Social Justice and Human Right Challenges in responding to Historical Abuse Disclosures

An area of concern that we wish to further highlight regarding social justice, human rights and social work relate to retrospective disclosures of historical childhood sexual abuse. Taking first some areas of legal concern, Ring (2012, 2009a, 2009b) suggests that there are complex legal dilemmas involved in prosecuting cases of historical sexual abuse that render the risk of an unfair trial “unconstitutionally high” (Ring 2009b: 162). One dilemma concerns the limitations of the defendant’s ability to prepare a defence, as witnesses may be unavailable or deceased, evidence is destroyed or lost, witnesses memories fade and the consequent capacity to demonstrate prejudice are sometimes profoundly compromised (Ring 2009a, 2009b). While lengthy delays in other types of criminal cases would preclude prosecution, there is acceptance by the Courts in Ireland of the special considerations in sexual abuse cases that contribute to delay and therefore there is not an automatic bar on such prosecutions (Ring, 2009a: 84). The Courts recognise the victim’s vulnerability and the contributory role of the applicant alleged perpetrator in such delays.

Feelings of misplaced guilt and shame often prevent the victim from making a complaint to the police. Until recently, the fear of reporting was compounded by society's disbelief of victims....Lengthy lapses of time between the alleged offence and reporting present huge challenges to the criminal process, which must vindicate the accused's constitutional right to a fair trial while also seeking to prosecute these most serious of allegations (Ring 2009a:83)

Since the parameters for successful prohibition applications in the Courts in Ireland have narrowed considerably in recent years and in the absence of demonstrable prejudice, the reviewing Court are more likely to presume that the defendant is not prejudiced by delays in taking proceedings and will allow the trial to proceed (Ring 2009a: 85). The challenges facing the judiciary in ensuring due process in such cases are therefore substantial and trial

judges should have appropriate directions and warnings at their disposal in order to ensure the due process rights of the accused are guaranteed (Ring 2009a:92).

The courts have recognised that historic child sexual abuse cases take place in a landscape disconnected from the normal matrix of surrounding physical and circumstantial detail. Reconciling the secretive nature of these offences with the criminal standard of proof requires much more than a credible complainant. Therefore, investigating and prosecuting authorities must be as diligent as possible in seeking out as much collateral evidence supporting the complainant's account, and showing the consistency of the complainant's version of events if the right to a fair trial is to be vindicated. (Ring 2009 b: 200)

Other legal dilemmas relating to the prosecution of retrospective disclosures of childhood sexual abuse concern the contested nature of repressed memories and the legal disclosure of the complainant's medical and psychiatric reports. The debates regarding repressed memories centre on a general disagreement over the nature of memory and whether memory is primarily *reproductive* and therefore generally accurate, or *reconstructive* and a subjective rather than a factual representation of the past (Ring, 2012:70). This issue continues to be debated in legal and psychological circles and is one of the complex legal parameters involved in prosecuting retrospective disclosures of childhood sexual abuse. As prohibition applications to the Courts in cases of retrospective disclosures of sexual abuse are diminishing, due to the difficulties in securing them, post-criminal conviction appeals based on the lack of disclosure of complainants psychiatric and counselling records to the defendants, with which to challenge complainants regarding "recovered memories" of abuse are seen as likely to become more common (Ring 2009 b: 197). The potential contentious issue for social workers involved in such cases, results from the potential for counselling and therapy to elicit both true and false memories (Ring, 2012:71). These are critical issues that go to the heart of the fairness in prosecuting retrospective disclosures of child sexual abuse. However, they have yet to be subjected to sustained analysis and consideration by the Irish Superior Courts (Ring, 2012).

Turning now to social areas of concern in relation to retrospective disclosures of child sexual abuse and in particular to child protection involving such cases the High Court Judicial Review (1996, 85 JR), also known as the Barr Judgement, marks an important landmark. In this judgement, which centred on the human rights of an alleged offender in the difficult context of responding to child protection concerns, social workers were subjected to a number of recommendations by Judge Barr. First, social workers were reminded that they

have a duty to carry out reasonable fair assessments of each complaint of alleged abuse. “In the ordinary course in such serious cases the complaint should be put to the alleged abuser in the course of the investigation and he/she should be given an opportunity of responding to it”, except in circumstances where to do so would put a child in jeopardy, such as where the abused child is the complainant (pp. 20 -21). The judgement also specified that Health Boards (or similar agency responsible for child protection) have a duty to take all reasonable steps to interview the alleged offender; “to furnish him before the interview with notice of the allegations against him in short form; to give him a reasonable opportunity to make his defence and to carry out such further investigations as might appear appropriate in the light of information furnished by him in response to the complaints” (p. 22). No opinion as to the weight to be attached to each complaint should be formed until the foregoing investigations relating to the alleged offender has been made and information derived therefrom had been carefully assessed. The need to take that course is all the more important when the social worker had no prior knowledge or experience of the alleged offender, his family or other concerned persons (p. 22).

With regard to the dissemination of information about alleged child abuse by a particular person, the judgement suggests that “a Health Board ought always to remember that such complaints, if unfounded, have of their nature a potential for great injustice and harm, not only to the person complained of but perhaps also to the particular child or children sought to be protected and others in the family in question. A false complaint of child abuse, if incorrectly interpreted by a health board, could involve the destruction of a family as a unit by wrongfully having the children it comprises taken into care. It may also destroy or seriously damage a good relationship between husband and wife or long-standing partners” (pp. 21-22).

Since this landmark judgement, retrospective cases of child sexual abuse have become even more commonplace in reports to social work teams, and there is anecdotal evidence of frustration amongst social workers as policy in relation to child protection in such cases is ill-defined and practice is not consistent across the field (Department of Health and Children, 2008: 20). There are varying views within social work teams as to how these referrals concerning historical cases of child sexual abuse are to be handled and there is very little evidence-informed practice research on which to base best practice. Social workers in Ireland suggest that many retrospective abuse allegations made to the Health Service

Executive do not receive an adequate response, and at times receive no response at all (see One in Four, 2012) while the practice fluctuates from over-zealous to non-existent. Anecdotally social workers report that this is the areas of child protection work that causes most ambiguity in their role. It is an area of social work practice that urgently requires further research.

Concluding Comments

Social work is a profession facing considerable challenge. The task of working for social justice and human rights is a challenging one, particularly in the area of sexual crime and child protection. Resisting the new restrictions of penal policy punitiveness and of “the child protection complex” requires a sensitivity to human rights and social justice that includes the needs of all service-users. In such complex and difficult areas of work, practitioners are faced with both an embarrassment of riches and a lack of direction when it comes to the availability of ethical theories and ideas intended to help address such pressing ethical problems and practice concerns (Ward and Salmon 2011: 399).

Professional Social Work is challenged by this work to critically examine the role played by social work practitioners in the on-going battle that abuse victim-survivors endure in having their rights and needs respected, protected and fulfilled. How social workers are to go about this important work requires further service-user informed research on which to base good ethical practice. There is an argument for victim/survivors of sexual abuse to become consultants to social work teams as they try to navigate this complex area of responding adequately to the challenges involved in child protection work, particularly in cases involving retrospective disclosures of abuse complaints.

With regard to working with perpetrators of sexual crime, several solutions are offered by academics and practitioners to the ethical and human rights dilemma’s identified in working with this group of service-users. These include a return to “treatment-as-rehabilitation” in which the principle of therapeutic jurisprudence (an ethic of care) or Ward’s “Good Lives Model’ (see Ward 2010b) offer an approach to practice that is compatible with human rights law and universal professional ethics. Social workers and specifically those working within the criminal justice setting have an important advocacy role in promoting social justice and human rights within the application of the law in how therapeutic services for men who have sexually offended are applied.

Overcoming and resolving the challenges inherent in working with both victim-survivors and abuse perpetrators of contemporary and historical sexual abuse within a social justice and human rights ethical framework, with all the child protection ramifications involved, remains the greatest task facing contemporary social work, certainly in Ireland, the U.S. and the U.K. In working through an ethic of care alongside a social control mandate, particularly with vulnerable service-users, the charting of an ethical course between dominant discourse, restrictive agency managerialism and practice ethics presents many dilemmas. However if human rights are to be held as inalienable and absolute, and social justice is the imperative, which unlike aspects of social work are not susceptible to economic forces and competing ideological and political persuasions, then there is no option for social work professionals but to continually return to their social work values and principles as defined by the International Federation of Social Work (IFSW), stay close to service-users from whom to seek legitimacy, be passionate about human rights and social justice, value and demand the necessary training and support and ultimately dig deep for the courage of our professional social work/ convictions. **Overcoming and resolving these challenges** remains necessary for the integrity of the profession.

References:

- British Association of Social Work, (2012). *The Code of Ethics for Social Work: Statement of Principles*. (On Line) Retrieved from the World Wide Web on 18/12/12 at: http://cdn.basw.co.uk/upload/basw_112315-7.pdf
- Birgden, A. and Cucolo, H. (2011). The Treatment of Sex Offenders: Evidence, Ethics, and Human Rights' *Sexual Abuse, A Journal of Research and Treatment*. 23 (3): 295-313.
- Canton, R. (2007) 'Probation and the Tragedy of Punishment'. *The Howard Journal*, 46 (3), 236–254.
- Commission on Social Justice, (1994). *Social Justice Strategies for National Renewal*. London: Institute for Policy Renewal.
- CORU, (2011). *Social Work Registration Board: Code of Professional Conduct and Ethics for Social Workers*. Dublin, CORU. (On Line) Retrieved on 18/12/12 at: <http://www.coru.ie/uploads/typeset%20SW%20code%20Feb%202010.pdf>
- Department of Health and Children, (2008). *Progress Report on Programme for Government, 2007-2012* Accessed 05/05/2013 at: http://www.taoiseach.gov.ie/attached_files/Pdf%20files/HealthEnglish.pdf
- Dominelli, L. (2010) Globalization, contemporary challenges and social work, *International Social Work*, 53 (5) 599-612.
- Dominelli, L. (2009) 'Anti-oppressive Practice: the challenges of the twenty first century', in R. Adams, L. Dominelli, and M. Payne, (Eds), *Social Work: Themes Issues and Critical Debates*. Basingstoke: Palgrave Macmillan.
- Dominelli, L. (1998) Anti-Oppressive Practice in Context. In R. Adams, L. Dominelli and M. Payne, (Eds.), *Social Work, Themes, Issues and Critical Debates*. London: MacMillan.

- Dominelli, L. (1996) 'Deprofessionalizing Social Work: Anti-Oppressive Practice, Competencies and Postmodernism'. *British Journal of Social Work*. 26, 153-175.
- Fahey, T and C. Field (2008) *Families in Ireland: An analysis of Patterns and Trends*. Dublin: Stationery Office.
- Featherstone, B., Hooper, C.A., Scourfield, J. and Taylor, J. (2010) (Eds.), *Gender and Child Welfare in Society*. Oxford: Wiley Blackwell.
- Featherstone, B., Rivett. And Scourfield, J. (2007). *Working with Men in Health and Social Care*. London: Sage.
- Ferguson, H. and F. Hogan (2004) *Strengthening Families Through Fathers*. Dublin: Family Support Agency
- Fenton, J. (2011) 'Bringing Together Messages from the Literature on Criminal Justice Social Work and 'Disjuncture': The Importance of 'Helping'.' *British Journal of Social Work* 2011 Advance Access Published 30 September 2011: 1-16.
- Garland, D. (2001) *The Culture of Control: Crime and Social Order in Contemporary Society*. Oxford, Oxford University Press.
- Giroux, H. (1988), *Teachers as Intellectuals: Towards a Critical Pedagogy of Learning*. London: Bergin and Garvey.
- Glaser, B.(2011)'Paternalism and the Good Lives Model of Sex Offender Rehabilitation'. *Sexual Abuse: A Journal of Research and Treatment*. 23(3) 329–345.
- Glaser, B. (2010b) 'Sex offender programmes: New technology coping with old ethics' *Journal of Sexual Aggression*. 16 (3): 261-274.

Glaser, B. (2003). Therapeutic jurisprudence: An ethical paradigm for therapists in sex offender treatment programs. *Western Criminology Review*, 4, 143-154.

Government Publications, (2010) *Commission of Investigation, Report into the Catholic Diocese of Cloyne*, Government Publication, Dublin.

Government Publications, (2009a) *Commission to Inquire into Child Abuse, Report, Vols. I-V*, Government Publications, Dublin.

Government Publications, (2009b) *Commission of Investigation, Report into the Catholic Archdiocese of Dublin*, Government Publications, Dublin.

Government Publications, (2005) *The Ferns Report*, Government Publications, Dublin.

Gregory, M. (2006) 'Practical Wisdom and the Ethic of Care in Probation Practice.' *European Journal of Probation*. 3 (3) 60 – 77.

Harris, J. (2008) 'State Social Work: Constructing the Present from Moments in the Past'. *British Journal of Social Work* (38) 662-697.

IASW (Irish Association of Social Workers), (2009) IASW Code of Practice. Retrieved from the World Wide Web on 7 December 2011 at http://www.iasw.ie/index.php/component/docman/doc_download/267-iasw-code-of-practice-sept-2010

IASW (Irish Association of Social Workers), (2007) IASW Code of Ethics. Retrieved from the World Wide Web on 7 December 2011 at http://www.iasw.ie/index.php/component/docman/doc_download/107-iasw-code-of-ethics

International Federation of Social Work (IFSW)

Ife, J. (2008). *Human Rights and Social Work: Towards Rights-Based Practice*. (Revised Edition). Cambridge: Cambridge University Press.

High Court Judicial Review (1996 85 JR), Barr Judgement, 33 [1998] 4 IR85,

Holohan, C. (2011) *In Plain Sight: Responding to the Ferns, Ryan, Murphy and Cloyne Report*. Dublin: Amnesty International Ireland. Retrieved from the World Wide Web on 8 December 2011 at:
http://www.amnesty.ie/sites/default/files/INPLAINSIGHT_FINAL.pdf

Howe, D. (2008) *The Emotionally Intelligent Social Worker*, Basingstoke, Palgrave MacMillan/

Hugman, R. (2003) 'Professional Values and Ethics in Social Work: Reconsidering Postmodernism?' *British Journal of Social Work* (33), 1025-1041.

International Federation of Social Workers (2000) *International Definition of Social Work*, (On Line.) Accessed 7th December, 2011, at:
<http://ifsw.org/resources/definition-of-social-work/>

Keenan, M. (2012). *Child Sexual Abuse and the Catholic Church: Gender, Power, Organizational Culture*. New York, USA: Oxford University Press

Keenan, M (2011). Opening a Space for Hope in a Landscape of Despair: Trauma and Violence Work with Men who have Sexually Abused Minors. In Witkin, S. (Ed). *Social Construction and Social Work Practice: Interpretations and Innovations*. New York: Columbia University Press (pp. 240-277).

Kennedy, P. (2013). *Key Themes in Social Policy*. Oxon: Routledge.

Millar, M. (2008) 'Anti-Oppressiveness': Critical Comments on a Discourse and its Context. *British Journal of Social Work* 38. 362-375.

Moulden, H.M. and Firestone, P. (2010). Therapist Awareness and Responsibility in Working with Sex Offenders'. *Sexual Abuse; A Journal of Research and Treatment* 22(4): 374-386.

One in Four, (2013). Available at: <http://www.oneinfour.ie/get-help/> Accessed: 19/05/2013

One in Four, (2012). *Submission by One in Four to The Joint Oireachtas Committee on Health and Children regarding The Children First Bill 2012 May 11th, 2012.* Available at <http://www.oneinfour.ie/resources/> Accessed: 19/05/2013

Parton, N. (2003) 'Rethinking Professional Practice: The Contributions of Social Constructionism and the Feminist 'Ethic of Care'. *British Journal of Social Work* (33) 1-16.

Parton, N. (1994). 'Problematics of Government', (Post) Modernity and Social Work. *British Journal of Social Work* (24) 9-32

Payne, M (2005). *Modern Social Work Theory*. Basingstoke: Palgrave.

Pease, B. (2002). Rethinking Empowerment: A Postmodern Reappraisal for Emancipatory Practice'. *British Journal of Social Work*, (32) 135-147.

Powell, F., Geoghegan, M, Scanlon, M. and Swirak, K. (2012) 'The Irish Charity Myth, Child Abuse and Human Rights: Contextualising the Ryan Report into Care Institutions' *British Journal of Social Work*, advanced access, doi: 10.1093/bjsw/bcr182, first published online: January 16, 2012

Prescott, D. and Levenson, J. (2010) 'Sex Offender Treatment is not Punishment'. *Journal of Sexual Aggression*, Vol. 16, No. 3, pp. 275-285.

- Reichert, E. (2001) 'Move from Social Justice to Human Rights Provides New Perspective', *Professional Development: The International Journal of Continuing Social Work Education*. 4(1): 5-13.
- Ring, S. (2012) 'Due process and the admission of expert evidence on recovered memory in historic child sexual abuse cases: lessons from America' *The International Journal of Evidence and Proof*. 16 (1): 66-92.
- Ring, S. (2009a). Justice Denied? An Analysis of the Difficulties Facing Applicants for Prohibition in Delayed Prosecutions for Child Sexual Abuse. *First Criminal Law Online*, 2009 (6) 83-93. Accessed 29th September 2012 at: <https://www.justis.com/data-coverage/CLOS-JUN09.pdf> .
- Ring, S. (2009b) 'Beyond the Reach of Justice? Complainant Delay in Historic Child Sexual Abuse Cases and the Right to a Fair Trial' *Judicial Studies Institute Journal*, 9 (2):162-203. Accessed 27th September 2012, at: [http://www.jsijournal.ie/html/Volume 9 No. 2/9\[2\] Ring Child sexual abuse.pdf](http://www.jsijournal.ie/html/Volume%209%20No.%202/9[2]RingChildsexualabuse.pdf)
- Rush, M and Keenan, M. (2013). The Social Politics of Social Work: Anti-oppressive social work Dilemmas in 21st Century Welfare Regimes. *British Journal of Social Work* Published online February 28, 2013 doi:10.1093/bjsw/bct014
- Sakamoto, I. and Pitnere, R. (2005) 'Use of Critical Consciousness in Anti-Oppressive Social Work Practice: Disentangling Power Dynamics at Personal and Structural Levels.' *British Journal of Social Work*. 35, 435-452.
- Scourfield, J. (2003). *Gender and Child Protection*. Basingstoke: Palgrave, McMillian.
- Singh, G, and Cowden, S. (2009). The Social Worker as Intellectual. *European Journal of Social Work*, 12 (4) 479-493.

Smith, D. and Vanestone, M. (2002) 'Probation and Social Justice'. *British Journal of Social Work*. 32, 815–830.

Smyth, J.M. (2001) 'Remembering Ireland's architecture of containment: "telling" stories in The Butcher Boy and States of Fear' *Eire-Ireland: Journal of Irish Studies*, Fall-Winter.

Smyth, J.M (2007). *Ireland's Magdalen Laundries and the Nation's Architecture of Containment*. Indiana: University of Notre Dame Press.

United Nations. (1948). *Universal declaration of human rights*. Retrieved on 7 December, 2011, at: <http://www.un.org/Overview/rights.html>

United Nations (1993) Vienna Declaration and Programme of Action: World Conference on Human Rights, Vienna, 25 June 1993, (On Line). Accessed on 21/1/13 at: <http://www2.ohchr.org/english/law/pdf/vienna.pdf>.

Ward, T. (2010a): Punishment or therapy? The ethics of sexual offending treatment, *Journal of Sexual Aggression*, 16:3, 286-295.

Ward, T. (2010b). The Good Lives Model of offender rehabilitation through the lens of the risk-needs-responsivity mode. In F. McNeill, P. Raynor and C. Trotter (Eds.). *Offender Supervision: New Directions in Theory, Research and Practice*. (pp. 41-64). Abington: Millan.

Ward, T. and Salmon, S. (2011). The Ethics of Care and Treatment of Sex Offenders.. *Sexual Abuse: A Journal of Research and Treatment*, 23 (3) 397-413.

Ward, T., Gannon, T. and Birgden, A. (2007). Human Rights and the Treatment of Sex Offenders. *Sexual Abuse: A Journal of Research and Treatment*, 19: 195-216.

Wilson, A & Beresford, P. (2000). Anti Oppressive Practice – emancipation or appropriation? *British Journal of Social Work*, 30, 553-573.

Wronka, J. (2008). *Human Rights and Social Justice: Social Action and Service for the Helping and Health Professions*. Los Angeles: Sage Publications.