

Reflections on “In detention I saw hell on earth”: Giving voice, bearing witness, advocacy and preserving history’ - a research presentation session by Dr Maria Pisani and Dr Lorleen Farrugia

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Abstract

This paper will present reflections on a conference session by Pisani & Farrugia (2022), on their research that explored the lived experiences of unaccompanied minors as they transitioned to adulthood. The researchers also aimed to give voice, bear witness, develop an evidence base for ongoing advocacy, and to document and preserve for historical purposes the voices of unaccompanied minors. The findings of this research demonstrate how the State has not only failed in its obligation to protect the rights of young people seeking asylum, but has itself actually been a source of control, terror and violence. This paper adds on to these reflections by focussing on the predatory relationship between the state and unaccompanied minors and calls for an end to this form of institutionalised racism and State Crime.

Introduction

Many professionals who come from the social field and have worked or come in contact with children who are under the care of the state can attest to the vulnerability, complex situations and distress that children who are under a care order endure in their everyday life, often with a prolonged long-term effect. Being unaccompanied constitutes an added vulnerability to this spectrum, as unaccompanied minors continuously face additional challenges, disadvantages, and barriers. Imagine yourself – a child, all alone, suffering abuse and trauma with no one to rely on, except an impersonal state, which - as you might be also fully aware - may not necessarily be acting in your own personal self-interest. I'm sure we would all feel the same.... sad, isolated, disempowered, angry and lost.

Unaccompanied minors and the state: A predatory relationship

Notably, it seems as if the relationship between unaccompanied minors and the state may be synonymous with that of the relationship between victim and offender. As in most crimes of a predatory nature, the relationship between unaccompanied minors as victims and the state as perpetrator is characterised by huge power disparities. A clear and significant power imbalance of the most powerful versus the most vulnerable; the state who has the power to legislate, enforce the law, and provide access to rights and services and those who on the other hand, are subject to the law, have no power, no rights, and no voice whatsoever. We are all in some form or other controlled by the State, also supposedly in our best interests, but what makes this relationship of domination and oppression between the state and unaccompanied minors more insidious and predatory, is its control under the disguise and mantra of care.

Several experiences of unaccompanied minors were presented in the conference session and in the research report by Pisani and Farrugia (2022) which attest to the difficulties faced by these minors due to the state's administrative systems and governance mechanisms. Fortunately, even though these various "institutional practices made it very difficult for unaccompanied asylum-seeking children to maintain and create loving relations in their lives" (Kauhanenvet et. al., 2022, p. 5), these accounts do not only emit stories of victimisation but also recall narratives of resistance, empowerment and hope.

Here I will not focus on unaccompanied minors but more on the offender, the perpetrator – our State! So, what, and who makes up the state? The State - all the bureaucracy, processes, bodies and institutions comprising the apparatus of the government, includes both the interests identified with the government and the people who work for the government (Ross 2000). Although private institutions can wield coercive power, the state holds the exclusive legal authority to legislate and enforce the law and in the process, control and coerce. The state is indeed the political entity that holds the legitimate monopoly on the use of force, and holds the balance of power, as it has a disproportionate amount of resources in order to carry out its mandate. A mandate, which in the case of unaccompanied minors it is clearly not fulfilling.

This leads us to the concept of 'higher immorality' (Mills 1956) or 'governmental lawlessness' - (Sykes and Cullen 1992), better known as state crime. State crime comprises all acts of commission or omission that violate international or the state's own domestic legislation. In the case of unaccompanied minors, it's evidently a question of both, as the Maltese state is simultaneously violating both international human rights law as well as domestic child protection legislation. The state is often presented as a benevolent force, however, there is no crime that politics has not justified on state reasons. The Machiavellian maxim "In the interest of the state" has historically served as a pretext for various hideous crimes. Indeed, "on the score of the interest of the State, of the safety of the commonwealth, politics have caused the perpetration of every possible crime" (Proal, 1898, p. 33); slavery, war, genocide, and crimes against humanity, apart from repression, corruption, exploitation and curtailing dissent. Letting people die at sea, repatriating people to unsafe countries, keeping people arbitrary detained, and denying basic rights and services for the most vulnerable members of society – in this case, unaccompanied minors, is also often carried out in the maxim of the interest of the state.

'In the interest of the state' is also linked to the other Machiavellian maxim, directly linked to illegal, immoral, and unethical practices – that of, 'Might makes right', translating into "I am in power and I do what I want, and you do what I say". As the state is both "a crime-regulating and crime-generating institution" (Barak, 1993, p. 209), it is often the case that "those who legislate and enforce the law – and determine what is to be regarded as legitimate – are in the position of violating the law themselves without being criminally defined" (Clinard and Quinne, 1978, p. 144) and criminally liable.

Conclusion

Denying unaccompanied minors their fundamental rights and freedoms violates international and domestic law. Whether by commission or by omission, it's an abuse of power, a form of institutionalised racism, and let's call it by name - it's a crime, a State Crime and like any other crimes, we should expect that perpetrators are held accountable and brought to justice, and victims vindicated!

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