

## ORIGINAL ARTICLE

# The lived experiences of children/young people in the Aotearoa-New Zealand family court system

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**Abstract**

This qualitative study explores the experiences of young people with professionals as they traverse the family court in Aotearoa-New Zealand. A hermeneutic phenomenological lens, based on the writings of Heidegger, Gadamer, van Manen and Buber, explored this phenomenon, which was embedded in the notion that young people need to have agency, the ability to act, to speak and to share their thoughts in matters that affect them. Six young people aged 8–16 years, four lawyers for the children, four specialist report writers (psychologists) and one parent were interviewed. Each interview was crafted into a story, which were then interpreted into “themes”, to allow the young person's experiences to be better understood and presented. This article focuses on one aspect of the young person's experiences as reported by them. The key insight was that the professional who engages in extra-ordinary listening about the young person's experience of what matters to them, can build a space of trust, the “between”, the gap between two people where mutual authenticity can exist, where discussion can occur, and where the professional can hear, respect and represent the young person's views at the decision-making phase of Court proceedings.

**KEYWORDS**

children and young people, family court, listening, professionals, relationships, the “between”

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### Key points for the family court community

- Children and young people can have agency and express their views on matters that affect them.
- Professionals who work with/represent children and young people need to use extra-ordinary listening skills to hear the message they are being told.
- A conversation where mutuality and respect occur with each participant listening to the other, where the dialogue is the focus and a 'between' space is created will allow the child/young person to feel heard.

## INTRODUCTION

This paper considers the experiences of children and young people who met professionals from the Family Court in Aotearoa-New Zealand. We reflect on the findings from the study with a special emphasis on the relational issues that were discovered from interviews with six children/young people. A hermeneutic phenomenological approach was taken in this study, based on writings from Heidegger (1962), Gadamer (1975), van Manen (1990) and Buber (2014). A significant finding of the study was that by drawing on Buber's concept of "between" relationships, an improved outcome for the children and young persons' journey through the Family Court can occur.

This article will first examine the context of the study within Aotearoa-New Zealand followed by the theoretical positioning which guided the study. Literature about children and young people within the Family Court will then be examined with a focus on factors that contribute to or detract from the child/young person's participation. The data from the children/young people will be presented, which will lead to discussion of the findings about the relationships that worked or did not. Finally, a conclusion will summarize the findings.

## CONTEXT OF THE STUDY

This study occurred within Aotearoa-New Zealand, a bicultural society where Māori are the indigenous people; and *taiwi* describes all people non-Māori. The 1840 Te Tiriti O Waitangi (Treaty of Waitangi), signed between the Māori chiefs and Queen Victoria (the Crown), is a founding relationship-setting document that has three principles of participation, partnership and protection for all people who reside in Aotearoa-New Zealand. In 1980 the Family Court was formally established as a branch of the District Court; although family matters had been separated from criminal matters since early in the twentieth century. Two major Acts guide judicial interventions about children and young people's welfare: The Care of Children Act (2004) (CoCA) which legislates when parents and family (*whānau*) are unable to reach a consensus about parenting arrangements; and The Oranga Tamariki/Children and Young People's Well-being Act (1989) (OTA) which addresses children and young people in need of State intervention and potentially care and protection. In line with the United Nations Convention on the Rights of the Child (1989), the overall welfare of the child/young person, on matters that affect them, is the key principle in both Acts.

Children and young people whose family journeys through the Family Court usually participate through and are represented by agents such as Lawyer for the Child. This agent has the role of speaking for the child/young person's welfare and assisting proceedings to a conclusion, whether through settlement or Judicial Hearing. A social worker

guides practice in the OTA jurisdiction. Psychologists, known as “specialist report writers” may be appointed to prepare a report about the child/young person’s welfare. On occasions, young people speak directly to the Court, with anecdotal evidence suggesting this is an increasing trend. The judge may choose to meet the young person. The young person may request an interview with the judge, but it is normally other professionals who convey the young person’s voice. These many relationships that the child needs to traverse and manage create a difficulty, as the young person may need to tell their story multiple times.

## THEORETICAL BACKGROUND

This study was grounded in the philosophy of hermeneutic phenomenology as proposed by Heidegger [1889–1976], Gadamer [1900–2002] and van Manen [1942–]. According to Heidegger (2000), philosophy is thinking about one’s worldview to gain “‘explanations’ and interpretations of his/her individual and social life. The meaning and purpose of human existence, and of human creation as culture, are discovered” (p. 7). “The goal of phenomenology is to describe lived experience”. (Carpenter, 2011, p. 74). Hermeneutics is where the language used by participants to describe their world about the research topic, is unpacked and interpreted by the researcher using a philosophical lens, in this case, phenomenology. Phenomenology is the study of experience of consciousness without theoretical assumptions that is, what is the person’s experience of the targeted phenomenon under study (Lawn, 2006)? The researcher’s biases are recognized and explicated in a pre-research discussion. Thus, hermeneutic phenomenology allowed the researcher with all her recognized biases to interpret the world of the subject’s experience to reach a deeper understanding of their lived experience. There may be different interpretations by different people reading the stories of children’s experiences and through discussion the understandings deepen. If children/young people are to be “real” participants in the Family Court system, it is vital that those advocating for them and their welfare and/or making decisions on their behalf, take time to listen and to understand the child/young person’s life story.

The philosophical notion of “the between” as described by Martin Buber [1878–1965] guided the interpretation of children and young people’s voices. Buber, a relational anthropologist, described two major types of relationships, the “I-It” and the “I-Thou”. I-It relationships relate to my involvement with an object which I can study but not interact with; or when I take a part in an inauthentic dialogue with another person (such as gossip or sharing the time of the day). Even though there may be two or more participants, Buber (2010) considered this type of conversation a monologue. In contrast, I-Thou relationships occur in a dialogue between two (or more) participants: between two mutually connected people and between a person and God. The space between these beings is known as “the between” (Buber, 2014).

Buber’s notion of “the between” provided a useful framework for interpreting the relational narratives provided by the child/young person participants in this study. Children and young people could identify a genuine, “I-Thou” mutual relationship as opposed to an “I-It” relationship where they were treated akin to objects, without thought for their personhood. Unless the child-professional relationship is developed and mutual, the notion that children and young people are participating is said to be false. Interpreting and understanding children and young people’s experiences is an important role for an advocate or professional who carries their voice to the Court. As a specialist report writer, creating a strong and positive relationship with the child/young person client is the most important feature of any interview.

## Interviews

Hermeneutic phenomenological focused interviews are more open and less structured than clinical or forensic interviews. Hermeneutic phenomenological interviews focus on allowing the participant to share their experience and their voice (Smythe, 2011) and to “elicit rich in-depth insights of an experience”. (Crowther & Thomson, 2020, p. 4).

The aim of a hermeneutic phenomenological interview is to unpack and understand the unique participant's experience of the phenomenon under study, in this case the child/person's experience of meeting professionals from the Family Court. Questions start from a wide statement about the focus, this being that I wished to hear and understand how it was for you (participant's name) when you met professionals from the Family Court.

In contrast, clinical interviews occur within health professional-client/patient relationships with a goal of forming a relationship to promote transparent information sharing, diagnosis, formulation of treatment and change (Hunt, Chan, & Mehta, 2011; Targum, 2011). The goal of forensic interviews is to gain the most information possible about alleged [abusive] events that have been perpetrated on a child/young person or another person (Benia, Hauck-Filho, Dillenburg, & Stein, 2015; Canning & Peterson, 2020; Saywitz & Camparo, 2009). These interviews are conducted by trained professionals who have a semi-structured through to structured interview protocol and methodology (Child Youth and Family and NZ Police, 2012; Duron, 2020; Hershkowitz, Lamb, Katz, & Malloy, 2015; La Rooy et al., 2015; Lamb et al., 2009; Leach & Powell, 2020; Orbach et al., 2000).

## THE LITERATURE: AND YOUNG PEOPLE IN THE FAMILY COURT

Generally, the literature supports the United Nations Convention on the Rights of the Child (United Nation Convention on the Rights of the Child (UNCRC), 1989) that children and young people wish to participate in decisions that affect them and their lives, but not to make a choice about which parent to live with, known as a voice not a choice. In particular, Article 12 is the centre of the discussion about participation, though there is recognition that other articles contribute heavily. Kennan, Brady, and Forkan (2018) supported the notion that children who have a say are more likely to abide by the Court's decision. Cossar, Brandon, and Jordan (2014) found that maltreated children who were given a voice tended to show increased self-confidence if they were listened to and heard by professionals.

The term participation has been defined by Lansdown (2011) as

an ongoing process of children's expression and active involvement in decision-making at different levels in matters that concern them. It requires information-sharing and dialogue between children and adults based on mutual respect and requires that full consideration of their views be given, taking into account the child's age and maturity (p. 3).

Scholars have developed differing models for children and young people's participation, seemingly modeled from the citizen's participation ladder model. (Arnstein, 1969; Hart, 1997, 2013; Shier, 2001; Treseder, 1997). Arguably, Lundy (2007) provided the most compliant model to UNCRC. She stated that child/young person participation was not an option, or something gifted by adults, but a "legal imperative which is the right of the child" (p. 931). For participation to occur, Lundy (2007) proposed that four conditions needed to be met: that the **space** was appropriate and an opportunity was given to express a view, that the child/young person's **voice** was facilitated and heard by an appropriate **audience** and **influence** provided so the child/young person's voice was given validity. Despite the call for participation, Macdonald (2017) found that social workers were less likely to report on younger children's views as they were perceived to have "less perceived agency" (p. 7). The age of the child can be a major factor that is used to determine perceived competence.

Since the end of the twentieth century a number of authors both internationally and in Aotearoa-New Zealand have assisted our understanding of how we might enable children and young people to speak cogently about issues that matter to them. (Atkin, Caldwell, Henaghan, & Tapp, 2013; Bala, Birnbaum, Cyr, & McColley, 2013; Birnbaum, 2009; Birnbaum & Bala, 2009; Birnbaum, Bala, & Cyr, 2011; Birnbaum & Saini, 2012; Boshier, 2005, 2006, 2008; Fernando & Ross, 2018; Fitzmaurice, 2017; Parkinson & Cashmore, 2007, 2008, 2020; Parkinson, Cashmore, & Single, 2007; Taylor & Gollop, 2015; Taylor, Gollop, & Smith, 1999a; Taylor, Gollop, Smith, & Tapp, 1999b; Taylor, Smith, Gollop, & Tapp, 2001; Tisdall, Baker, et al., 2002a; Tisdall, Bray, Marshall, & Cleland, 2004; Tisdall, Davis, & Gallagher, 2008; Tisdall, Marshall, Cleland, & Plumtree, 2002b; Tisdall & Morrison, 2012; Young et al., 2020).

Within the literature related to children/young people within the Family Court, there appears to be a growing appreciation that children and young people benefit from being able to participate and share their views, although they may not determine the final decisions on matters that affect them (Banham, Allan, Bergman, & Jau, 2017; Birnbaum, 2017; Birnbaum & Saini, 2012; Boshier, 2006; Bradbury-Jones, Isham, & Taylor, 2018; Campbell, 2008; Cashmore, 2011; Cherney, 2010; Clark, 2017; Crane & Broome, 2017; Damiani-Taraba et al., 2018; Henderson-Dekort, van Bakel, & Smits, 2022; Hill, Davis, Prout, & Tisdall, 2004; Krutzinna, 2022; Macdonald, 2017; Parkinson & Cashmore, 2020; Sargeant & Gillett-Swan, 2019; Soo Jee, 2017; Tisdall, 2016; Tisdall et al., 2004; Walker & Misca, 2019). The literature strongly suggests that children/young people within the Family Court system want a voice, not a choice.

There are five inter-linked “themes” within the literature in relation to child/young person participation and what this means.

## Communication—The importance of listening

Children/young people wanted to be listened to and heard, which led to them feeling respected, understood, and valued. An improved relationship with the lawyer was an outcome for some children who were listened to (Taylor, Gollop, & Smith, 1999a).

In her Australian study of children and young people and their mother's reported experiences with Court-Appointed Experts (CAEs), Hay (2003) found that if children/young people were not heard or understood, they felt that their thoughts and their claims of abuse were both minimized. This was also demonstrated in a Swedish study by Eriksson (2012) when relating the story of “Bill”. Here, failure to listen to his views meant that Bill was pressured to conform with the adult social worker's expectations to see his abusive father. Similarly, Chester (2022) advocated for the importance of professionals listening to children and young people, particularly in the situations where a parent had alienated them from their other parent or where there were allegations of violence. This author proposed that the child/young person could be at greater risk of physical and psychological harm and could lose trust in the safety of their “safe” parent and professional if they were not listened to. Studies to date suggest that children and young people benefit when the court professional genuinely and empathically listens to them and does not dismiss their views, no matter what these are.

## Information sharing with children/young people

Parkinson and Cashmore (2020) emphasized the need for children and young people to have appropriate information shared with them in a way and in language that the child could understand. Important information includes information about the process, who the participants are, the time and delays, and the possible outcomes that may occur. Pryor (2008) spoke about the importance of children and young people being regularly informed about the progress of proceedings. In Aotearoa-New Zealand, delays in the process of arranging parenting orders are notoriously frequent leading to disillusioned young people who feel their lives will never be stable.

Despite the literature noting the importance of information sharing, Taylor, Gollop, and Smith (1999a) found that only 13 of 20 children in their study received independent information from their Counsel about the outcome of proceedings. Reliance on parents to share information neutrally and effectively was questioned in another study when a young person commented “Like both my parents are going to mention what finally happened, but parents are going to have a bias, they [the lawyer] should tell me what finally happened” (Birnbaum & Bala, 2009, p. 58). Young people are aware that their parents have their own agendas and hence may be unreliable. The importance of independent communication from a professional who, arguably, the young person may trust more than his parents has been emphasized by the young people. The literature suggests that children and young people are more likely to participate meaningfully if they have information shared by the professional in a way that they can understand. This reduces confusion and disillusionment and makes it more likely that the final decisions will be adhered to.

## Confidentiality of information shared

In Aotearoa-New Zealand, there are different standards of confidentiality when adults communicate with their lawyer (which is privileged) and child/young person communication with their lawyer (which is not privileged). Taylor, Gollop, and Smith (1999a) found that the children they interviewed mostly expected that the information they shared would be kept confidential, with the one identified child, whose narrative was shared with others, feeling disrespected. Marshall, Tisdall, and Cleland (2002) found similarly in their study about children's participation in the Scottish system. Some children/young people considered that their lawyers treated "children as second-class citizens" (p. 33) due to a lack of confidentiality of their discussions. In Aotearoa-New Zealand, Fernando (2013) reported that children and young people did not want to share their views with a report writer because there was no assurance of confidentiality.

However, it has also been noted that, once rapport and trust were established, confidentiality became a lesser issue (Leach, 2005). Seven youths interviewed about lawyer-child ethics reported valuing communication and participation in decision making over the confidentiality of their discussions (Chaplan, 1996). It appears therefore that children and young people value information sharing, and with discussion, some children and young people will forgo confidentiality if this allows their voice to be heard in a meaningful way. The relationship of the professional is found to be a vital component of information sharing.

## Environmental factors, where will I be seen?

Hart (1992, 1997, 2013), an advocate for exploring children and young people's participation, identified the place where the child/young person was seen the location and the time of being seen as important factors in enabling children and young people's participation. This is a factor also noted within The United Nations Committee on the Rights of the Child (2009).

Taylor, Gollop, and Smith (1999a) reported that children wanted to see their lawyer in the lawyer's office rather than school or at a time out-of-school to protect their information from peer awareness. Darlington (2006) cited a participant named Karen who had a different view and suggested a more familiar location where she would be most relaxed and comfortable when interviewed: "[M]ay be if it was in their home environment or something it would be easier rather than going into the city, into a strange office with strange people and stuff... (p. 57).

Horsfall (2013) recognized that environment as a significant factor affecting children/young people's relationships with their lawyer, noting the intimidating and non-child focused nature of the courthouse. In contrast, from Judge's perspectives, interviews with children/young people using the courthouse spaces, including their office, the mediation room, or the court room were considered to "better respect the significance of the occasion for the child" (Taylor & Caldwell, 2013), demonstrating the disparities between an adult's and child/young person's view.

A major report in Aotearoa-New Zealand about the future of children and the child protection service noted that the environment was a contributor to children and young people's participation recommending that:

Other agency teams ... offer face-to-face meetings in an office environment that is child and family-friendly in its design and furnishings. The voices of children, families and wider stakeholders will be included in the design process. (Rebstock et al., 2015, p. 126)

Our observation is that this recommendation is yet to be put in place, with meeting rooms continuing to be adult meeting focused with tables and chairs, whiteboards, and pens to record decisions. Waiting rooms may have bean bags and soft furniture but are noticeably devoid of toys, books and child-friendly materials. The recent COVID pandemic appears to only have worsened the situation. The literature therefore notes the importance of where a professional sees the child/young person in setting the tone of the meeting and the ongoing relationship.

## Bias towards a parent

Children/young people perceived professional bias against a parent which was deleterious to the child/young person's experience of the Family Court system and their relationship with professionals. Children and young people have shared that their lawyers have been biased (Taylor, Gollop, & Smith, 1999a) and have advised that Judges should not be biased (Birnbaum et al., 2011). Biases may be influenced by the preconceptions and experiences that the professional takes into the meetings, such as seeing Johnny's story as the same as Jack's rather than seeking the independent message. It is important that professionals recognize and minimize these biases to provide an even playing field for their child/young person clients.

However, aligned with bias in favor of a parent was inviting a parent to sit in with the child/young person when their views were sought. Literature found that the child/young person could feel unsafe to express their views, especially if a parent had been abusive to the child or their other parent in any way (Buchanan, Hunt, & Bream, 2001; Eriksson & Näsman, 2008; Hay, 2003).

## Summary

In summary, the five themes presented from the literature contribute to our understanding of participation, and what is needed for children and young people's voices to be shared and heard. The key themes from the literature are that listening to the children/young people about their experiences and life to date, sharing information about the process they are participating in, discussing what happens with their information, asking where they might like to be seen and avoiding bias are all factors vital to real participation of children and young people. Jointly, these contribute to the strength of the relationship and perhaps the mutuality of the relationship.

As a challenge to any notion of a child/young person, participation in the Family Court arena is the struggle between the dominance of the parents' views and those of the children/young people. There is a continuum between the child/young person as an independent and social person whose views have validity to the parent being the adult and thus in control of the welfare of the child/young person and their views being determinative (Eriksson & Näsman, 2008). In Aotearoa-New Zealand, this struggle can affect the child/young person's participation as usually both parents' consent is needed by professionals to interview the young person, this is true for psychologists. If a parent does not permit the child/young person to see the psychologist, the value of any report about the child/young person's welfare that may be presented to the Court is limited. The Court can override the parents' non-consent, but this adds an extra level of complexity to the child/young person's position.

The literature and discussion above point to the importance of the child/young person-adult relationship, but does not deal with the relational issues per se. This study adds to our understanding by directly examining the relational experience children and young people have with Family Court professionals in Aotearoa-New Zealand.

## METHOD

### Research design

The research design for this study was guided by a hermeneutic phenomenological lens applied to the experiences that children and young people had when they met professionals from the Aotearoa-New Zealand Family Court (Gadamer, 1975; Heidegger, 1962; van Manen, 1990). According to van Manen (1990, p. 9)

(Phenomenology) differs from almost every other science in that it attempts to gain insightful descriptions of the way we experience the world pre-reflectively, without taxonomizing, classifying, or

abstracting it. So, phenomenology does not offer us the possibility of effective theory with which we can now explain and/or control the world, but rather it offers us the possibility of plausible insights that bring us in more direct contact with the world.

Phenomenology celebrates the individual voice and hermeneutics is the understanding of this voice (Gadamer, 1975, 2006, 2007). Hermeneutic phenomenology is situated within qualitative research paradigms and allows the exploration and interpretation of an individual person's experience within their culture, space, time, body, and inter-relationships, aspects of the individual's "lifeworld" (van Manen, 1990, p. 27). The interpretation "gets closer to the truth" and, as there is no ending to the interpretation, asks the reader to also engage in their interpretation (Heidegger, 1962). Thus, hermeneutic phenomenology provides a lens for a potentially different understanding of the individual and unique child/young person's experiences of meeting varying Family Court professionals as heard and interpreted by a researcher whose own biases have been explicated. A better understanding of the child/young person arguably allows for a more authentic presentation of the child's lifeworld to date, to aid their participation in an adult system.

Each child/young person participant offered their own unique account of how it was for them, on that day, in that place, with all the background information, and pre-judgments that they brought to the encounter. Phenomenology does not have a set method and is seen to be "inductive and descriptive in its design" (Carpenter, 2011, p. 74). However, there are "guidelines" available to aid the process of understanding and interpreting the phenomena (Carpenter, 2011; Smythe, 2011; Smythe et al., 2008; van Manen, 1990, 2007). Such guidelines include unpacking the researcher's pre-judgments and biases that they bring to the study, which may influence interpretation; interviewing the participants using open-ended rather than closed questions; recording and transcribing the data; crafting stories and returning these to the participants to check that the researcher's understanding accords with the participant's narrative; creating themes; and writing to explicate the notions that have emerged from the stories.

The notion of how children/young people experienced meeting often a number of professionals from the Family Court was something that the lead researcher (KO) reflected on over the years of being a clinical psychologist who wrote reports for the Family Court. In her practice, she saw how a child/young person was already impacted by their parents' separation and then were expected to speak with a variety of other people (initially strangers) about their family life, both pre- and post-parental separation. She believed that undertaking a study with the aim of exploring the experiences of children/young people with professionals as they journey through the Family Court process in Aotearoa-New Zealand would not only impact her own practice, but also inform other professionals working with children in the Family Court.

Prior to commencing the study, recognizing the tensions between child/young person vulnerability and agency ethical approval was sought and gained from Auckland University of Technology Ethics Committee (18/229). The Principal Family Court Judges also approved access for researcher I (KO) to approach Lawyers for the Children to access potential child/young person participation. In line with phenomenological hermeneutic methodology, one of the research supervisors (LS) interviewed the lead researcher (KO) to identify pre-judgments and biases which could affect data collection and later interpretation of the data. These included the researcher's own life experience that led to career choices through professional experiences and an exploration of the lead researcher's socio-cultural life that she brought to the future interpretation of children and young peoples' experiences of meeting professionals such as herself.

## Participants

Participants in this study were six children and young people and nine adults, comprising four lawyers for the children, four psychologists who write specialist reports for the Family Court, and one parent. This paper only reports findings from the child/young person perspective in relation to their journey through the Family Court in Aotearoa-New Zealand.

The children/young people were accessed by lawyers for the children who, at the end of proceedings, discussed the research proposal and requirements (in brief) with their child/young person clients (and parents on most occasions). Lawyers for the children reported difficulties recruiting families for the study given the requirement for parental consent. It was reported that the parents felt they (and their children) were too exhausted by the Court process, and they needed to rebuild their family at this time. These barriers have been recognized by other researchers (Coyne, 2010; Hay, 2003; Inder, 2020; Kutrovátz, 2017; Moorhead, Sefton, & Scanlan, 2008; Stötzel & Fegert, 2005).

When referrals for potential participants were received, a phone call was made to the nominated parent to discuss the research process. Letters were sent by email to the young people and their parents, containing adult consent and child/young person assent forms. All parents that were approached agreed to their child being interviewed. When these forms were received arrangements were made to meet the child/young person in a place convenient to them. In most cases, this was an office. All interviews were double-taped and professionally transcribed, as recommended by Smythe (2011).

## Interview process

All interviews were undertaken by the lead researcher (KO). Prior to the interview commencing, verbal assent/consent was gained from the child/young person. Each participant was asked for a name we could use for them during the study to preserve their anonymity.

In the introductory phase of the interview, the young person was asked about their interests and daily activities to “tune in” with their language, the words they used and to the power dynamics. Once the child/young person appeared comfortable, the researcher turned to the topic with the statement: “I am really interested in how it was for you to meet the adults from the family/youth court. Can we start by writing down who you met and what we shall call them?” On a piece of paper, we wrote down names and what their role was, if known, exploring how the professional was remembered and what tasks they were involved in with the young person. This allowed us to agree on a “title” or job for this person, as well as a pseudonym. The conversation and questioning flowed from that point. Prompts included asking for help to “unpack” something, or seeking with curiosity more understanding, which sometimes led to examples being provided to clarify an experience. The interview continued until it seemed that the child/young person had little else to say. The interview finished by summing up what was heard as a way of checking back and thanking the young person for their time and contribution.

## Data analysis

The audio recording was professionally transcribed to provide written data. Individual crafted stories were created with the initial interpretation of the data and returned to the participants for their comments (Crowther, Ironside, Spence, & Smythe, 2017). Subsequently, each tape and transcript was reviewed many times, seeking deeper meaning and experience. From this analysis, themes emerged which help understand the “*structures of experience*” (van Manen, 1990, p. 79). From the children/young person data, the focus of this paper, a key theme of the importance of the relationship, the “between” as proposed by Buber (2014) emerged.

## RESULTS

This section presents some of the child/young person stories and the interpretations of these are now presented. Young people were able to describe positive experiences with professionals when journeying through the Family Court as described here.

I felt my journey through the Family Court was actually pretty good. I felt like it was organised although it was a bit slow it still ended up being quite an effective thing and I reckon the professionals did things appropriately and all around. I think they did a good job... ..Looking back at the professionals and my experience of the Family Court, it was helpful in the way that just it calmed this family drama down and it made time available for people to have a break and be able to breathe and think about what they do. There was a time when it was very tense, and I just felt like it wasn't a very good time. The Courts helped us so much and so well that it allowed us to get our bearings on life and get back to some sort of normal, yeah, a new normal but it works.

(Hugh, 15 years)

Hugh's experience of professionals he met through the Family Court was generally positive. Drawing on van Manen's (1990) lifeworld existentials, Hugh spoke of his experience with professionals as being in his body (tension), his relationships (the family drama), and space (people have a break to be able to breathe). He contrasted the time of tenseness with the time of calming down, where time was a healer towards a "new normal". Time was also perceived as long, though in hindsight this became part of the generally positive experience Hugh felt.

Hugh was able to safely express what he needed and felt his voice was heard, perhaps a testament to Buber's "between" in relationships. Experience is always about "everything"; yet, in the telling of any one story, it is likely that the focus turns to a particular aspect. For example: "Being able to breathe" is a metaphor that suggests a more relaxed body and time to make decisions or to process events. Other relationships, space, body, and time (in their presence or absence) are all intertwined as part of lived experience. Reflection within this "everything" experience space allows for a relational "between" to enter the dynamic if the professionals are supportive as Hugh found. This implies a space of sharing and mutual regard between the young person (Hugh) and the professional. Hugh felt that his thoughts and experiences have been heard.

Another young person, Ben, described his journey differently to that of Hugh:

At times, it felt like I was staring into the abyss, like what would happen if I go through here and what would I look like at the end of it and what would the people around me look like in the end. I mean what do people look like mentally at the end. What kind of mental or physical state could people be in at the end? It was the unknown of the outcome, what would happen at the end of the Family Court? I was really worried about Dad and Mum and how they would be at the end of all this.

The abyss was darkness which I could let go of at the end, let go of some of that sadness or anger because a lot has been solved during this process. Professionals gave me solutions at the end which was good.

(Ben, 11 years)

In this narrative, Ben spoke of his fear, sadness, and doubt about how his experience of the Family Court process (professional engagements) would interplay with his lived relationships with important people in his family. He experienced darkness when he "stared into the abyss", a metaphor for the journey with no apparent end, the unknown. He expressed uncertainty about how this process, including the meetings with professionals, would affect his parents, his family, and himself. Ben addressed the emotional toll that has occurred for him, including sadness (perhaps bleakness), fear, uncertainty, and concern for others. However, at the end of the process, the professionals offered him solutions which he perceived as helpful. This relationship where Ben connected with the (unnamed) professionals could be seen as a "between", a mutuality which helped Ben to orient towards the future.

Daniel (16 years), a youth offender, shared about the importance of relationships. Speaking of the difficulties of his experience in Court, he then went on to describe his experience with two professionals whose "between" relationships assisted to mitigate the previous Court-system difficulties and his healing.

In Court, Daniel described his feelings of intimidation. He felt like he was treated as an object:

I remember standing in the courtroom just absolutely shitting my pants. It was definitely daunting standing up right at the front of the courtroom when everyone else was kind of sitting down and you just had to stand there, arms folded. In the courtroom, I would stand right up on the left hand, go up on the left-hand row, and stand right at the front sort of a couple of metres from the Judge's box, just stand in the middle of the row. That's how they always made me do it. It was like the bad boy's spot. This was pretty daunting. I used to stand up dressed in my college suit and tie and uniform and it definitely was quite daunting. And standing all the time, not sitting like the professionals and others in the room. I used to get the wobbles. I don't know if you have ever tried to stand in the same place for 40 minutes but it's not easy.

(Daniel, 16 years)

In Buber's terms, Daniel was the object of an I (Judge and professionals) – It (Daniel) monological (inauthentic) conversation that stripped him of his power and sense of self. Daniel's bodily sensations of fear and anxiety dominated his experience. He spoke of “shitting my pants”, “standing up with arms folded ... for forty minutes until he had the wobbles”. Others, including the professionals, were seated. Daniel knew he was in the “bad boy's spot” under the Judge's eye while others viewed his back, creating more vulnerability. The experience was “daunting”. Daniel was the object of others' view, not a subject with a voice. For a child/young person who has done wrong, to be left standing as an object was punishment and denigration, which may not help the rehabilitation process and further perpetuate his belief that he is “bad” and thus a bad person.

In contrast to this objectification and intimidation of Daniel, his experiences with two helping professionals were more positive.

I think Tara (my therapist) and Katy (my social worker) both knew I was different to the usual type who they worked with. Katy and Tara both kind of connected to me on a personal level. I think that is a big thing going from that professional with a personal level I think is quite cool. Like Katy would see me in the Court and she would come and give me a hug, how are you, ask about family and how is school going? Tara also gave me personal ideas and touches while asking me to change within a professional relationship.

For Daniel, the importance of a personal connection (a mutual authentic experience where he was heard) made a big difference (a hug, being asked about his family and school). He spoke of the importance of touch as a bridge between professional and personal relationships. For Daniel, having this personal interaction was important to allow his trust in others to develop and flourish. The trust from the relational connection led to healing and, without trust, change is less likely to occur (Ackerman & Hilsenroth, 2003; Leach, 2005; Miller & Hubble, 2017).

Arguably, these professionals exhibited a relationship consistent with Buber's “between” which Daniel believed added to his healing. van Manen (1998) drew attention to the importance of the professional, reflecting on how their client experiences the process, and if necessary, suspending their views in the interest of hearing the client's experience. This goes towards Buber's (2014) concept of the “between”, the space between two people which is permeated equally by both.

Aimee and Jack played as a way of sharing their experiences and both felt that through this they were heard, at least in part.

Sandra, a therapist, just wanted to see me play, like especially with dolls and how I interacted and what people were in it. There was a big doll's house with lots of different dolls. In contrast, another professional I saw, she just asked me questions, though she also gave me a set of dolls; a mum doll, a

dad doll, a sibling doll, and a me doll. She asked me to place them as I wanted to. Well, I really remember that I enjoyed playing with the dolls.

(Aimee, 11 years)

I enjoyed playing in the sandbox with Nicola and she had all these stories. She told me to make up what my world was like and how it was with Dad and Mum. Nicola let me draw stuff on the board. She put stuff into groups like feelings and then asked me to pick someone in the circle of feeling and tell about the thoughts I had towards them. I liked playing in the sandbox better but it was all fine.

(Jack, 13 years)

Both these young people were able to play and share about their families in a supported way. Their play was different but the same, the freedom to speak in a different modality as provided for in UNCROC Article 13. Gadamer (1975) addressed the notion of play directly when he said, "Play clearly represents an order in which the to-and-fro motion of play follows of itself. It is part of play that the movement is not only without goal or purpose, but also without effort. It happens, as it were, by itself" (p. 108).

To-and-fro motion gives a sense of give and take, of movement towards something which is not specified in play. A lack of effort contributes to the spontaneity of the play. Play can also offer children and young people a "between" relationship, where their voice can be shared and heard by a person attuned to them, who can also share the process. The to-and-fro is an example of a between relationship. There is no beginning, end, or rules to this play (as Gadamer has said), it is effortless, yet meaningful sharing.

While play was important to Rebecca during her journey through Family Court, Rebecca was disappointed when a professional aligned with an adult, and she was marginalized:

One of the contact supervisors (Abigail) kept on talking with my father, Justin, and like only spoke to me and my sister when she was like telling us stuff. Abigail was telling us that Justin was amazing. This was kinda weird, like confusing and disrespectful.

The supervisor was often talking about her own life: she was saying that some children don't have any parents or only have a mother and that Justin is amazing. As she was talking to us about this, she was getting really loud about how amazing Justin was. She wasn't listening to us and what had happened to us.

I am just kind of thinking it is weird because they're thinking Justin is telling the truth when me and my sister Judy are making it quite clear that we like mum and that we don't really like Justin. She is still on his side, but he hurt Judy. That's what was kind of like weird to me.

It would have been better if the supervisor had played with us and not talked anything about Dad.

(Rebecca, 8 years)

At 8 years of age, arguably Rebecca is showing good insight and expression with respect to professional relationships that are unhelpful and are perceived by the young person as inauthentic and adult-focused. Abigail spoke of adult issues and her needs, with a lack of focus on Rebecca and her sister. This led to Rebeca noting that her father, Justin, the adult, was believed, whereas she and her sister were discarded and unimportant. This all felt "weird" to Rebecca, a word used to express a complex array of emotions. Notably, Rebecca spoke of play being a way that the supervisor could have breached the chasm and engaged with the young people, the people who need to be protected and kept safe, an important element of the between in relationships. Rebecca, Jack, and Aimee's experiences

demonstrate that play, as well as words, can add to the positive, engaged, mutual relationships where trust and safety are keys, all notions of the “between.”

In summary, the young people's narratives of their experiences of professionals in the Family Court in Aotearoa-New Zealand showed their wisdom and acuity about the importance of relationships that are respectful, enduring, and mutually shared, characteristics of Buber's (2014) “between” in relationships.

## TYING TOGETHER: DISCUSSION

In the Aotearoa-New Zealand Family Court, children and young person's views/participation can be secured by the appointment of a social worker (always in care and protection matters); if deemed by the Judge as “necessary” a lawyer to represent the child and; and a specialist report writer (usually a psychologist). The child/young person may have to meet with these three professionals (at least) and form relationships to share their thoughts about their life and experiences. While this allows adults to attend the Court process for the young person, there are also overt barriers apparent: the number of relationships to be formed, the number of times the child/young person's story is shared, and the external influences on the child/young person such as parents, siblings, extended family, and time delays. The covert barriers are about the development of relationships and whether this occurs. The literature to date is focused on behaviors that do or do not occur, but in this study, a deeper level of relationship, described as the “between” was uncovered as a positive factor for child/young person participation.

Martin Buber's (2014) notion of the “between”: the mutual relationship that is formed between two conversees, who each listen and consider the other's viewpoint and experience. “I meet you from my ground and you meet me from yours, and our lives interpenetrate as person meeting person in the life of dialogue” (Friedman, 2003, p. 55). Buber (1965) defines this as “genuine dialogue” (p.85), the turning towards, confirming of one's conversational partner with an intent to speak about what is important in an open manner.

Rapport and trust are arguably words that describe the “between” of the relationship. These add to the perception of safety (or not) of the young person. Words, play, and non-verbal gestures all contribute to these perceptions and to change for the young person. If a relational “between” occurs, young people are more likely to feel that they have been heard and their experiences validated.

Sanders et al. (2017) spoke of “conditional openness” (p. 261) as a term that encompassed this listening, which I relate to Buber's use of the “between.” Intuitively, I believe that, as for adults (Kaspiew et al., 2022; Littell, 2001), children and young people who developed a trusting and respected relationship with Court personnel were more likely to adhere to the Orders. However, if this relationship was more distant, the young person felt undervalued (Taylor & Gollop, 2015). Carson, Dunstan, Dunstan, and Roopani (2018) and Kaspiew et al. (2022) found that children and young people's compliance depended on their perceptions of safety and whether the Order took account of this. However, this appears to be an under-researched area worthy of future attention.

## CONCLUSION

In conclusion, this study that children and young people can share and make sense of their journey through the Family Court in terms of their relationships with the different professionals that they met. Overall, the child/young person participants found the professionals to assist them and their families. In my interpretation, if professionals worked to create positive relationships, akin to Buber's (2014) notion of the “between,” the relationship would likely to be more positively experienced and the child/young person's voice heard.

The young people participants all used words signifying “the between” such as “did things appropriately,” “helpful,” “solutions were good,” “connected,” “personal,” “wanted to see me playing,” and “enjoyed”. These words were interpreted to mean that the relationship was positive. In contrast, other words that suggested a poor

relationship with professionals included “daunting,” “bad boy,” “standing while others sat,” “had the wobbles,” “[professional] talking about herself,” “not listening,” and “feeling weird”.

For a positive “between” relationship, language, both expressive and physical, needed to be common to both participants to enable conversation and dialogue to occur in a between or therapeutic space. What happened in the “between” meant young people felt their voices were scaffolded and heard, or not, by the professionals with whom they met. How professionals work with these children/young people has long-term consequences on the sense of personhood they grow through the Family Court experience.

All real living is meeting (Buber, 2010, p. 11).

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