

## CHILDREN'S INVOLVEMENT IN CARE ORDER DECISION-MAKING: A CROSS-COUNTRY ANALYSIS

### Abstract<sup>1</sup>

This international comparative paper examines how child protection workers in four countries, England, Finland, Norway, USA (CA), involve children in decision making regarding involuntary child removal. The analysis is based on 772 workers' responses to a vignette describing preparations for care order proceedings. We examine children's involvement along three dimensions including information given *to* the child, information gathered *from* the child, and opportunities for their perspectives and interests to be considered. Results show that child protection workers weigh children's involvement differently based upon age. Staff in the four countries were more likely to talk with an older child, to provide information, to gather information, and to include in relevant decision making if the child were 11 compared to five in our vignette. Although the Nordic countries and England provide policy guidance regarding children's role in child protection decision making, we did not see consistently higher indicators of children's involvement from the respondents in these countries. Using child protection system frames to analyse the findings did not produce consistent differences between the *family service systems* and *child protection systems* included in this study. Findings highlight the wide range in practices concerning children's involvement in decision making, and the wide space for professional discretion in implementing practice with children at the local level.

### 1. Introduction

Removal of a child from parental care to public care is a serious state intervention in the private relations of children and their parents. Children, the subject of removal, are sometimes involved in decisions about their separation, but they are not necessarily engaged as agents of their fate. Some states make explicit through legislation an expectation that children are involved in determining their future; others are silent on children's participation. And because we know that child protection workers, as street-level bureaucrats (Lipsky, 2010), sometimes employ wide discretion in their work with

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families, we do not know whether workers in various state systems are more or less inclusive of children's voice. This international comparative paper examines how child protection workers in England, Finland, Norway, and the US (California) involve children in decision making regarding preparations of a possible involuntary child removal. We refer to *child protection workers* as a common term across countries, even though each country may use different terms to describe front-line workers in their child welfare system. We use the term *care order proceedings* to refer to the court processes that authorize the separation of a child from his/her parent(s), and *care order preparations* for the agency-based policies and practices that help determine whether and when to make an application to the court. We examine *children's involvement* along three dimensions including information given *to* the child, information gathered *from* the child, and opportunities for their perspectives and interests to be considered.

The article is informed by the principles laid out by Habermas (1996) and Eriksen and Weigård (2003) regarding the factors that contribute to the legitimacy of state-level decisions in the eyes of its citizenry. We focus on one fundamentally important principle, namely that the actors who are the subject of state-level intervention are given sufficient opportunities to be involved in the decision-making processes that concern them. The UN Convention on the Rights of the Child (UNCRC), article 12, states that children should be involved in these processes to the extent that they are heard, that their perspectives and interests are included and considered, and that they are given adequate information so that they can make informed choices about their circumstances and options (Archard & Skivenes, 2009a). Children, however, are unique actors as their capacity to make informed choices and voice their opinions is constrained by age, development, and maturity. But neither the physical nor the social sciences have determined a set age when children are considered universally capable of being engaged in decision making; states have thus developed various means of signalling children's capacity for authentic engagement.

The four countries in review represent different child welfare systems with Norway and Finland categorized as *family service systems*, the US as a *child protection system* (Gilbert, Parton & Skivenes, 2011), and England oriented toward a child protection system, but incorporating elements of family service system within that (Parton & Berridge, 2011). Across these child welfare systems, the formal regulations governing child welfare agencies' preparations for care order decision-making differ considerably (Berrick, Peckover, Pösö & Skivenes, in press). We examine children's involvement at

one identified point in child protection agencies' interaction with a family, namely when child protection workers consider child risk and safety so compromised that child removal may be required.

This analysis is based on data from an online survey with a total of 772 child protection workers who have experience preparing cases for care order proceedings as part of their work at a child protection agency. The survey included a vignette to which workers responded regarding their practice, including how and when they involve children and parents. This paper focuses on the responses to that vignette. The results are presented and analysed across each of the aforementioned dimensions of children's involvement in relation to the child's age and in the context of each state's policies and practice guidelines.

## **2. Children's involvement**

The involvement of service-users in social work practice, policy and research is a central theme in the social work literature (e.g. Beresford, 2013). In the field of child welfare, the involvement of service-users is commonly approached in terms of children's and parents' involvement and participation. On a theoretical level, different typologies of participation for children have been explored with special attention to the complexity of participation and related ethical and political considerations (e.g. Shier, 2001; Thomas, 2007). The metaphor of a ladder, for example, is used to describe the different steps of participation ranging from being assigned and informed, to child-initiated, to shared decisions with adults (Hart, 1992). This metaphor also recognises that children's participation may turn to non-participation due to tokenism, manipulation, and decoration if policy and practice fail to meet the special character of children's agency and position in power relations among parties. Thomas (2002) has elaborated on Hart's model, identifying different dimensions of participation, such as the support available to children, children's own choices about whether or not to participate, and the opportunities they have to express their views in other ways.

On a policy level, the UN Convention on the Rights of the Child (1989) is the major landmark for children's involvement in decision-making. Every member nation of the UN has ratified the 1989 UN Convention on the Rights of the Child, except the US, Somalia, and South Sudan. Although they were heavily involved in drafting the Convention, the US has demurred participating for reasons relating to religious freedom and parental rights; many elements embedded in the Convention are also already addressed in current US law (Mason, 2005).

The Convention is based upon four fundamental principles (Article 43, cf. Søvig, 2009): The child's right not to be discriminated against; the child's best interests as a fundamental consideration in all decisions that concern him/her; the child's right to life and development; and the child's right to participate and to express his/her views. The latter is outlined in article 12 of the UNCRC that specifically states that children have the right to "express [their] views freely" in all decisions concerning their welfare, specifically including "judicial or administrative proceedings affecting the child." These views are to be given due weight according to the child's age and maturity. Their participation rights also have to be considered in light of Article 3, which specifies the primacy of the child's *best interests*. Thus, a tension between the child's wishes and the child's best interests may sometimes arise (Archard & Skivenes, 2010).

Finland and Norway have explicitly used the UNCRC as a template to shape their legislation with respect to child welfare (Eydal & Satka, 2006). In England, the UNCRC has become an increasingly important benchmark for child welfare policy and practice. The principal piece of legislation that governs English child protection is the Children Act 1989, which was passed in the same month that the UNCRC was adopted by the UN General Assembly, November 1989. Drafters of the Act were well aware of the UNCRC, and in that spirit included provisions for children's representation and voice. In 2014, the role of a national figurehead for children's involvement, the Children's Commissioner for England, was amended from promoting awareness of children's views and interests, to "promoting and protecting the rights of children" with reference to the UNCRC (Children and Families Act 2014, s. 107). US child protection policy does not necessarily conform to the norms of the UNCRC, nor does it reference its policy approach in relation to the UNCRC.

In practice, multiple barriers hinder children's participation in many aspects of child welfare case planning and decision making (e.g. Sinclair, 2004; Skivenes & Strandbu, 2006; Archard & Skivenes, 2009b; Heino, 2009; Block, Oran, Baumrind & Goodman, 2010; Bessell, 2011; Vis, Strandbu, Holtan & Thomas; Fern, 2014). In a review of the literature on children's participation, some common themes emerge indicating that professionals harbour sensitivities about children's vulnerability; they also assume responsibility for children's protection from harmful or painful information; and some lack understanding of what participation actually entails (van Bijleveld, Dedding, & Bunders-Aelen, 2013). The extent to which child protection workers allow children's participation may also be shaped by children's age (Skivenes, 2015).

When children and youth are asked their views about whether their voice should be routinely considered in child protection, the response is affirmative (van Bijleveld, Dedding & Bunders-Aelen, 2013). Some evidence suggests that a positive relationship between the young person and the child protection worker can boost children's participation, yet there may be limits to participation as well (for a review, see Banham, Guilfoyle & Napolitano-Lincoln, 2011). Similar findings are reported in the field of health care where studies suggest that children and youth would prefer to be involved in decisions concerning their care, but where nurses express ambivalence about children's cognitive capacity to manage the difficult information provided (Coyne, 2006). In child welfare, children's involvement is also complicated by cognitive processing which might be compromised by developmental delay or complex trauma – problems that are prevalent within this population (Greeson et al., 2011).

Differences in children's and adults' conceptions of the nature of participation may also be at play. Studies of child welfare workers' perceptions of children's participation differ between child protection contexts (Healy & Darlington, 2009) and between countries (Kriz & Skivenes, in review). Based on in-depth interviews with 93 child protection workers, one study showed that staff in England, Norway and the US (CA) understood participation for children as hearing the child and gathering information, with the US workers more concerned with information gathering than the others (Kriz & Skivenes, in review). The study also suggested that workers from England had a more elaborate understanding of children's participation compared to their peers in Norway and the US. In McLeod's (2006) study of communication patterns between staff and youth in care, she argues that adults' understanding of "listening" to children is based upon their actions of respectful attention, whereas children's perspectives on "listening" refer to the actions of social workers in response to being "heard."

The few studies available on the effects of children's participation show that when they participate in child welfare decision making, safety may be enhanced, care arrangements may be more stable, and children's sentiments of well-being may improve (Vis, Strandbu, Holtan & Thomas, 2011).

### **3. Four countries' requirements for children's involvement**

Children's experience of involvement, and practitioners' dilemmas in authentically engaging children may be shaped, in part, by the formal regulations that govern the actions of child protection staff. This paper explores children's involvement in decision

making at the street-level, in the context of the formal policies and guidelines that shape practice in child protection agencies. These policies are enacted in a larger context such as the family-service or child protection-oriented child welfare systems in which they are nested in their respective countries. In the following we briefly outline the system context within which child protection workers conduct themselves with children to better understand the daily enactment of practice.

In Norway, children's participation is linked with their age at two important stages; legislation specifies that children aged 7, and those younger capable of forming their own opinions, shall receive information and be given the opportunity to voice their opinion before a decision is made. Children aged 12 and over shall be heard in cases of placement out-of-home, and their opinion shall be given weight. At age 15 children are parties in the case and may be appointed a lawyer to represent their interests.

In Finland, children's involvement is a requirement of the Child Welfare Act (417/2007). Every child – regardless of age – and every part of child welfare decision-making, including the care order proceedings, must include children's expressed views. Children who are 12 years of age or older have a legal position in the care order proceedings to say whether they agree or disagree with the care order application. Their opinion has the same legal weight as their custodians'. The involvement of children includes children's right to obtain information and the opportunity to express their views and wishes. Child protection workers are obliged to ascertain children's involvement, and if necessary, direct children to secure legal aid to document their views and wishes and to express these in court.

In England, the Children Act 1989 (which has been extensively updated since it was adopted) requires child protection workers to ascertain children's wishes and feelings – regardless of age – so far as is reasonably practicable and consistent with their welfare, and to give them “due consideration” in light of their age and understanding. Statutory guidance mirrors the law, specifying the importance of ascertaining children's wishes, and keeping them “informed about and involved in procedures, decisions, concerns and plans” (HM Government, 2013, 10). When care order proceedings are in progress, the child is entitled to a legal representative, and a “children's guardian” (an independent social worker) to report to the court on their wishes and feelings, but to recommend based on the child's “best interests.”

US federal law provides an overarching framework for each state's child protection system, but state law shapes practice, and some states (including California,

the site of this study) offer local counties significant discretion in practice as well. California social workers are required to have in-person contact with the alleged child victim of child maltreatment during the investigation (State of California, 2014). The purpose of the investigation is to determine whether the child is, or is at significant risk such that s/he would come under the jurisdiction of the juvenile court which may determine the child's need for dependency (State of California, 2014, 31-125.1). In addition, social workers' practice is guided by articulated "practice models" which attend to general goals in working with children and families. Models of practice are then aligned with practice behaviours that social workers are expected to exhibit. These models then shape expectations about how child protection workers should include children as participants (California Child Welfare Core Practice Model, 2014). Practice models, however, are not legislatively mandated. All children subject to the juvenile court are appointed an attorney to represent their best interests. A minority of children may also be assigned a Court Appointed Special Advocate – a lay community volunteer who may represent the child's wishes and views in court.

In summary, the legal framework and local requirements that shape the formal framework for children's participation are different, with more similarities among the European countries compared to California. In Finland, Norway and England, children have a right to receive information about their case and the opportunity to express their views and wishes directly to their child protection worker. In California, model practice behaviours would include children in decision making, but legislation does not address children's required involvement with social workers beyond the collection of relevant information concerning risk and safety.

The context of the child welfare system, along with policy and legislative guidelines, play a role in shaping front-line child welfare practice. Therefore we might expect child protection workers participating in this study in England, Finland and Norway, countries that have ratified the UNCRC and whose child welfare laws reference the UNCRC, to emphasize the involvement of children earlier in the case, more consistently, at a younger age, and in a greater variety of child welfare decisions than those in California. Responses from California are more difficult to predict in part because practice at the agency level is heavily influenced by local approaches to training and philosophy; state and federal law offer broad policy goals, but the practice approach to achieving these goals – particularly vis-à-vis children – is not delineated in law. Alternatively, we might expect responses from countries operating under a *family services*

framework to differ from responses in *child protection* countries. We also anticipate differences *within* countries, reflecting the different interpretations of the duties as well as the priorities of the individual workers involved. These hypotheses will be examined in light of the survey findings.

#### **4. Data and methods**

This study was funded by the Norwegian Research Council as part of a larger research project on decision-making in child protection in England, Finland, Norway and California in the US. The study includes a sample of 772 child protection workers who completed an on-line survey including questions about how they would involve children in a situation in which they are starting preparations for a care order. Child welfare workers can be difficult to study because they have significant work pressures with tight deadlines that squeeze time for research. We used different approaches to recruit study participants.

In Norway, the worker union “Felles-organisasjonen” (FO) allowed the researchers to email all child protection members (about 1500) directly; the response rate is 30%. In Finland, the trade union for professionals working in social welfare “Talentia” sent a link to the survey to its members working in public social welfare. As trade union participation is high in Finland and as this is the main trade union for social workers, this was useful to reach most child protection workers. However, as there is no estimate of the number of social workers employed specifically in child protection, it is not possible to provide an accurate estimate of the response rate in Finland. In England, the survey was initially distributed via two representative bodies for social workers, the British Association of Social Workers (BASW) and the College of Social Work (TCSW). These are not trade unions, and social workers are not required to be members of either. Both organisations also include social workers from adult care services. There was a slow response from the approaches to both organisations, and in the end a good response was only secured by sending a “please read and forward” e-mail to social workers on the contact list of the School of Social Work at the University East Anglia, with the offer of a £10 shopping voucher for the first 50 to complete the questionnaire. This means it is not possible to calculate a response rate. In California, ten Bay Area counties participated in the study. All Emergency Response and Dependency Investigations social work staff were sent an e-mail from their agency manager with an invitation and a link to the on-



line survey (n=260). Respondents were offered a \$20 grocery gift card. Ninety-eight (38%) social workers responded.

Of the total 1020 informants who responded to the survey, 772 had experience with care order proceedings and thus were eligible for inclusion in data analysis for this study. The total numbers of respondents from each country were 367 from Norway, 208 from Finland, 102 from England, and 84 from the US. The typical respondent had worked in child protection for 5.9 years. The English respondents had the shortest average experience working in the field of child protection (1.4 years). Respondents from England were, on average, younger (between 25-35 years) than their peers in Finland, Norway and the US (between 36-45 years). Respondents from California were more highly educated than the other workers; 91% possessed an MSW degree. In Finland, 65% had a MA degree (suggesting that upwards of 35% of respondents in Finland were unqualified temporary workers since they lacked the MA degree), in England, 57% had a MA degree, and in Norway, 9% had a MA degree. In all four countries, the vast majority of workers sampled were female; England stands out with 36% of the respondents as male (although this is considerably higher than the national proportion, which is 15% of social workers in children's services (Department for Education 2013)). The California sample included 11% men, Norway 10% and Finland 8%. The online survey was answered from February to June 2014. The survey took approximately 8-12 minutes to answer. The project was peer-reviewed as part of the application process for funding from the Norwegian Research Council. The questionnaire was reviewed by the office of the Norwegian Privacy Ombudsman for Research, which assesses privacy-related and ethical dimensions of a research project. In England, it received ethical approval from the Research Ethics Committee of the School of Social Work at the University of East Anglia. In California the Committee for the Protection of Human Subjects at U.C. Berkeley approved the protocol. The survey questions were developed in British English by the four researchers so that they were relevant in every child welfare system. The questions were then translated into Finnish, Norwegian, and US terms. The translations into Norwegian and Finnish were controlled by an independent source. The survey was tested by a small group of social workers in each country to ascertain that the questions and the vignettes were realistic in each country. Details about the data material and the process can be obtained at the following web address: [XXXX](#)

The analysis in this paper is based on the following vignette:

You are working with a boy – Alex – who is 5 years old and whose family has received in-home services over a period of time. The case includes parental substance abuse, previous domestic violence, and general neglect. The circumstances of the case have deteriorated recently to such an extent that you are concerned that the boy's risk of harm is high. You are starting preparations for care order proceedings with a view to removing Alex from his parents, and you have an interview with the parents to inform them about this. The parents are opposing a removal of Alex.

Workers were asked if they would talk directly with Alex and if so, when (i.e., early in the process, at some point in the process, only at the point of going to court). They were also asked about the major aims of this conversation. Staff were presented with eight different aims, and asked to rate them on a 5 point scale from not important (1) to very important (5), and also had an answer option as not applicable (*NA*). Only a few used this option, and were registered as missing. Workers were asked to respond to the vignette, first answering statements regarding the 5 year old, and then regarding Alex as aged 11. In appendix, table 1.1-1.5 there is an overview of the responses (n, mean, standard deviation, quantiles, min and max) per total and per country.

The seven aims in the questionnaire relate to three dimensions of involving children: 1) to ensure *inclusion in the decision-making process*; 2) *to provide information* about care order preparations; 3) *to collect information* regarding care order-related tasks. In the analysis we report the mean of the gradient scale *not important* (1) to *very important* (5). A Cronbach's Alfa analysis displayed a lack of interconnectedness between the variables, and thus we operate with all seven variables separately in the analysis.

We have used the statistical program Stata, and have undertaken simple correlation analyses, chi square tests, and mean-comparison t-tests. Table A in the appendix presents the mean values per country, distributed by age, and per weighted total. Also in the appendix, in table B, the mean comparisons between countries on the responses are presented, and finally in table C the mean comparisons on age are presented. Significance is displayed as follows: \*\*\* =  $p < 0.01$ , \*\* =  $p < 0.05$ , \* =  $p < 0.1$ , with the awareness that the  $p < 0.05$  and  $p < 0.1$  are on the margin of what is relevant to report as statistically significant. The main results in the findings section are presented in graphs, using a margins plot, the mean score for each country on the variable in question, with the confidence interval of 95% indicated on the brackets on each mean score. We first ran an ANOVA test in Stata, followed by a margins test, setting a confidence level

of 95 % and the “country” variable as identifying the margins. We were thus provided with a graph displaying the mean score and confidence levels for each country on the variables, for both age groups.

## 5. Findings

Following the case vignette, we asked respondents if they would speak with the child, and when. Approximately three-quarters of respondents indicated that they would do so early in the process (76%); about one in five said they would talk with the child at some time during the process (18%), and 4% said they would talk with the child if a decision about going to court had been made (cf. Table 1 below). Significantly fewer Finnish workers (55%) indicated that they would speak with the child early in the process.

However, as we shall see when we examine the findings in more detail, workers from Finland were more likely to rate it as very important to ensure that the child knew why care order preparations were being initiated. When respondents were asked the same questions regarding the 11-year-old boy, significantly more staff indicated that they would speak with him early in the process (87%,  $p < .01$ ). Finnish workers were significantly ( $p < .01$ ) less inclined to talk with the 11-year-old at this stage than their English and California peers ( $p < .01$ ), and their Norwegian peers ( $p < .05$ ). Examining how staff within countries consider the age difference, we found that respondents in California answered similarly to children of both ages. The English, Norwegian, and Finnish workers were significantly less inclined to talk with the 5-year-old compared to the 11-year-old early in the process ( $p < .05$ ,  $p < .01$ , and  $p < .01$  respectively).

**Table 1. Workers’ reponses about speaking with the 5 and 11 years old, per country. Percent and n (highest n=772)**

	Finland		Norway		England		US	
	5 ys old % (n)	11 ys old % (n)	5 ys old % (n)	11 ys old % (n)	5 ys old % (n)	11 ys old % (n)	5 ys old % (n)	11 ys old % (n)
Not likely	1.44 (3)	1.44 (3)	2.94 (3)	0.97 (1)	0.81 (3)	0 (0)	0 (0)	0 (0)
Yes, early in the process	54.81 (114)	80.38 (168)	81.37 (83)	91.26 (94)	79.4 (293)	87.03 (322)	88.89 (80)	91.11 (82)
Yes, at some point during the process	38.94 (81)	16.75 (35)	11.76 (12)	3.88 (4)	15.99 (59)	11.35 (42)	6.67 (6)	5.56 (5)
Yes, IF a decision about going to court has been made	4.81 (10)	1.44 (3)	3.92 (4)	3.88 (4)	3.79 (14)	1.62 (6)	4.44 (4)	3.33 (3)
Total	100 (208)	100 (209)	100 (102)	100 (103)	100 (369)	100 (370)	100 (90)	100 (90)

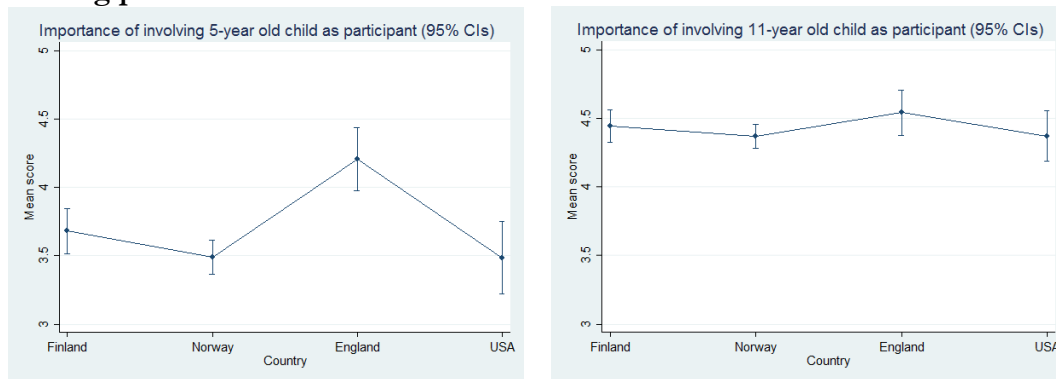
### *Three types of conversations with children*

We examined three dimensions of child involvement through the survey: child protection workers' conversations with children (1) to ensure inclusion in decision-making as a participant, (2) to provide information to them, and (3) to collect information from them. Within each dimension we present the findings for workers' responses to the involvement of the 5-year-old. Thereafter we present the results for the responses to involving the 11-year-old, and finally the results for differences between the age groups. The overall finding is that child welfare workers find it important to involve children, and significantly more so when they have reached the age of 11 (cf. table A in appendix).

#### *Conversations to involve the child as a participant*

When asked about the importance of including 5-year-old Alex as a participant in relevant decision-making processes, the English workers stood out with significantly ( $p < .01$ ) higher ratings than the other countries, whereas the countries are similar regarding the 11-year-old (see Figures 1.a and 1.b).

**Figures 1.a and 1.b. Including the child as a participant in relevant decision-making processes. Mean values with confidence interval at 95%.**

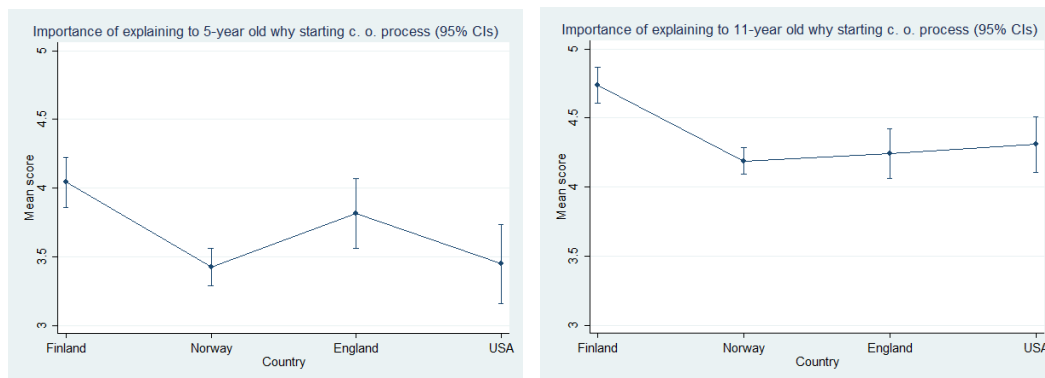


#### *Conversations that aim to provide information to the child*

The survey included two questions about the importance of providing information to the child. One question concerned the importance of informing the child about the reasons that the worker was starting care order preparations. First, the majority of the workers report that they found it important to provide information to the child, but there were differences between countries and the degree of importance is dependent on age (cf. table 2.c and 2.d). Starting with the 5-year-old, the Finns found it most important to

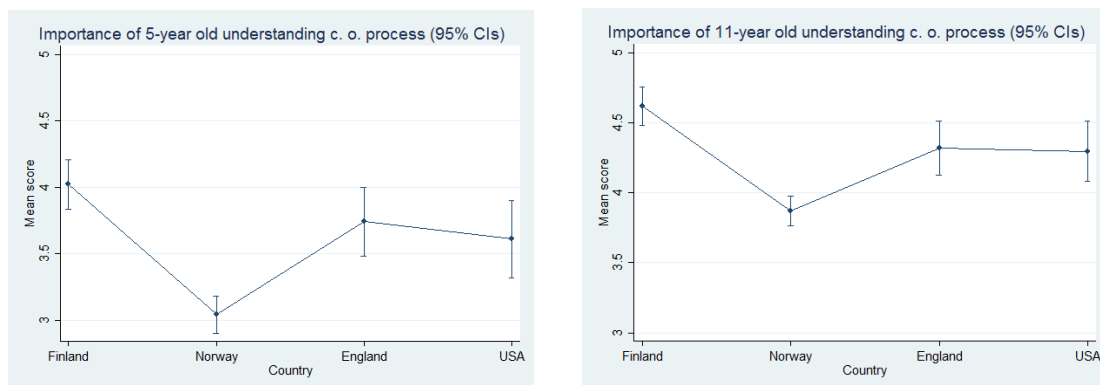
inform the child, closely followed by the English workers. The Norwegians found it significantly less important to inform the 5-year-old about why they were starting a care order, compared to their peers in England and Finland. If the child were 11 years old, the Finns found it significantly ( $p < .01$ ) more important to inform the child than their peers in the other countries. There were no significant differences between the other countries.

**Figures 2.a and 2.b. Informing the child about the reason for starting care order preparations. Mean values with confidence interval at 95%.**



The other question related to the importance of confirming that the child understood that care order preparations were in process (cf. Figures 3a and 3b). The Norwegians were significantly less ( $p < .01$ ) likely to indicate the importance of confirming that the 5-year-old or the 11-year-old child understood that care order preparations were in process. The Finns are on the opposite end, finding it significantly ( $p < .01$ ) more important than their peers in the other countries to confirm that the child understood that a child removal might occur (for the 5-year-old the significant difference was only  $p < .10$ ).

**Figures 3.a and 3.b. Confirm that the child understands that a care order preparation is in process. Mean values with confidence interval at 95%.**



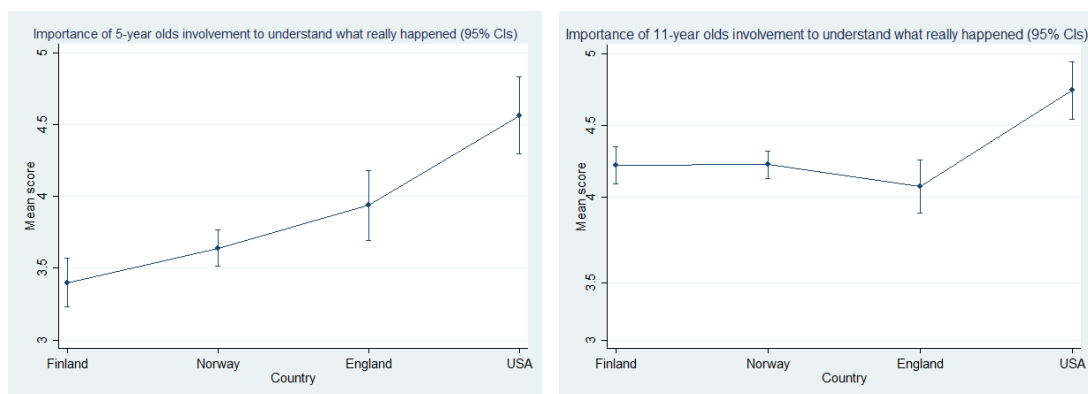
Age matters significantly ( $p < .01$ ) on both statements, so that workers found it more important to provide information to the 11-year-old than the 5-year-old.

#### *Conversations with the child to collect information*

There were four questions related to the theme of gathering information from the child. Staff were asked how important they considered it to speak to the child in order to establish the facts of the case; to ascertain the child's wishes and feelings; to find out if the child has needs they could help with; and to ask his preferences about his potential future placement. Overall, the workers found it important to collect information from the child; however, there were differences between countries and the considerations of importance were dependent on age.

Staff found it important to establish the facts in their conversation with the child, and more so the older the child (see Figures 4a and 4b). If Alex were 5 years of age the workers from California stood out, finding it significantly more important than their peers in England to establish the facts in their conversations with the child. Both the American and the English workers find this significantly more important than the Finns. If the boy were 11 years old the California sample again stand out as significantly different ( $p < .01$ ) from their peers.

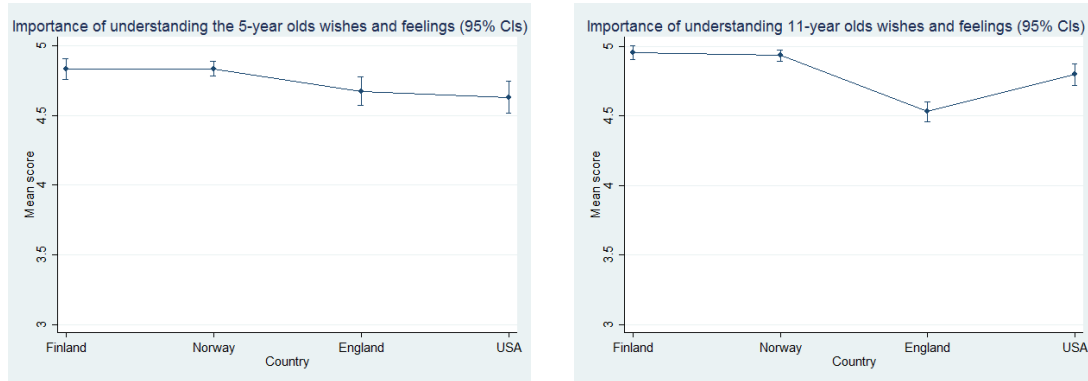
**Figures 4.a and 4.b. Establish the fact and circumstances of the case. Mean values with confidence interval at 95%.**



There was a general consensus that eliciting the child's wishes and feelings about the situation was an important aim for the discussions (see Figures 5a and 5b): if Alex were 5 years old, the Nordic sample stood out, finding this considerably more important than the Anglo-American samples. The Nordic countries also stood out regarding the 11-year-old, and were significantly ( $p < .01$  and  $p < .05$ ) different from the Anglo-American

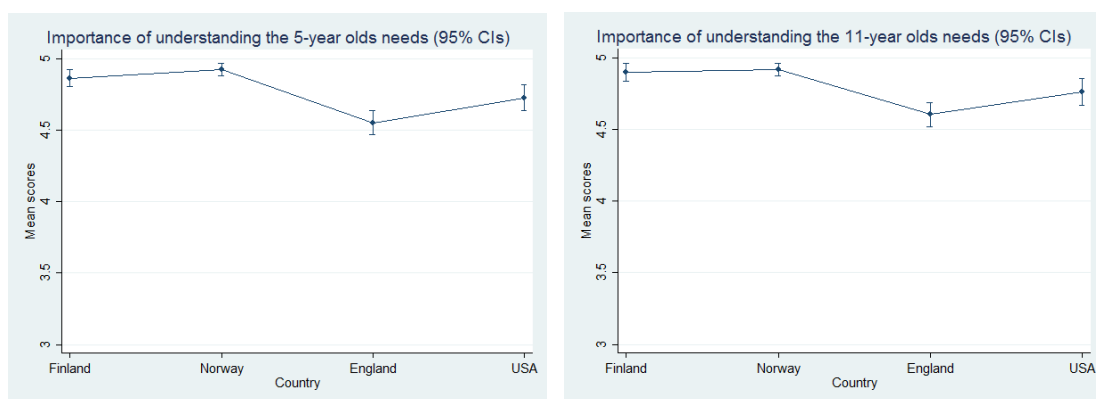
countries. However, the English found it significantly less important to ascertain the 11-year-olds' wishes and feelings about the situation.

**Figures 5.a and 5.b. Find out the child's wishes and feelings about the situation. Mean values with confidence interval at 95%.**



We asked whether staff would consider it important to discern the child's needs for help and support. The overall answer was yes (see Figures 6.a and 6.b). Norwegian workers were especially likely to state the importance of identifying the boy's needs, and were significantly different from England and California regarding both the 5-year-old and the 11-year-old. Workers in England found it less important than their peers to identify the child's needs, and were significantly different from the Nordic countries.

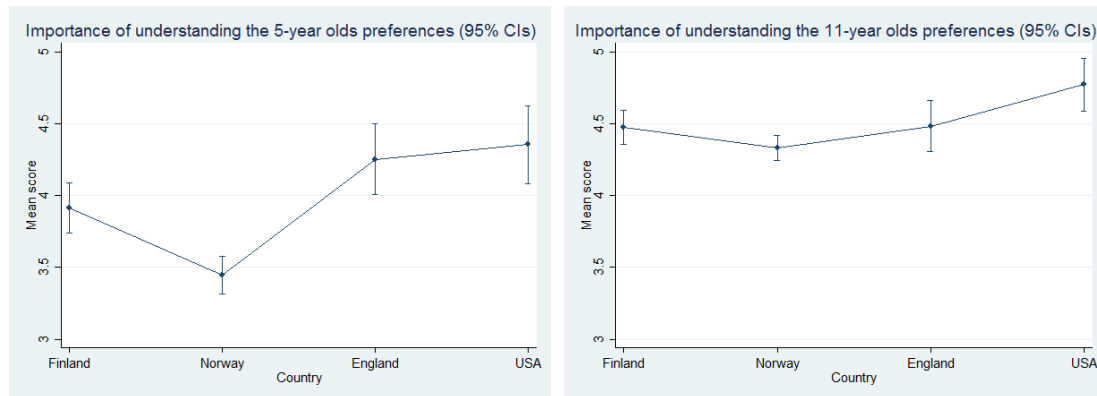
**Figures 6.a and 6.b. Find out if the child has any needs you can help with. Mean values with confidence interval at 95%.**



Many of the workers found it important to solicit the preferences of Alex about his potential future placement (see Figures 7.a and 7.b). For the 5-year-old boy, California and England stood out, closely followed by Finland. Norwegians were significantly ( $p <$

.01) less concerned with this theme than the other countries. Similar tendencies are evident for the 11-year-old even though the differences were less pronounced.

**Figures 7.a and 7.b. Ask the child about his preferences about his potential future placement. Mean values with confidence interval at 95%.**



## 6. Discussion

This study of children's participation in child protection care order proceedings started with a case vignette about a child in a situation in which the risk is considered to be so high that the parents are informed that preparations are being started for care order proceedings. Almost all child welfare workers in all four countries reported that they would speak with the child in this situation, and a large majority would do so early in the process for the 11-year-old, and a smaller majority for the 5-year-old. This clearly indicates that children are included in the proceedings. [DB1]Workers in all countries find, with few exceptions, it more important to involve an 11-year-old than a 5-year-old.

Our examinations of what type of conversations child protection workers would have with children are both interesting and surprising. Based on the system similarities between the Nordic child protection systems on the one hand, and the Anglo-American systems on the other, we expected that one divider in the material would be between these two broad approaches. We find tendencies to such a pattern in one type of conversation, namely regarding child interactions designed to elicit information *from* the child. In particular, the Nordic countries focus significantly more on the child's wishes, feelings and needs, than the Anglo-American countries. But as for involving the child as a participant, or providing information to the child, we do not find these patterns. Thus, we conclude that the idea that a risk orientation should result in less involvement for



children, or that the family service orientation in the Nordic countries should result in more support for different aspects of participation, is not confirmed.

Each country has a legal framework and/or practice guidelines that speak to children's inclusion, and the instructions to include the child are stronger in the Nordic countries and England, than in California. In particular there has been a sentiment that Norwegian and Finnish systems display a child centrism (Gilbert et al., 2011) that should lead to more inclusion of children. Our data do not confirm the idea that strong instructions in legislation and guidelines, however, are necessarily reflected in practice. Overall, it is the Norwegian workers that stand out as being less inclusive than their peers, both for the 5-year-old and for the 11-year-old. We shall return to possible explanations for this below. For the 5-year-old, England, Finland and California are similar, whereas for the 11-year-old Finland shows a stronger orientation toward child-centrism, followed by California and then England. These findings indicate first, that the discretionary space concerning children's participation for the Norwegian workers are much larger than first anticipated. Second, they indicate that we should explore what may be influencing the California workers in their approach to children's involvement.

Findings from this study highlight differences across countries in child protection workers' views about the importance of including children in the care order process. Reviewing the results by country, there are some unexpected results. Given the emphasis in Norwegian legislation on children's participation in child protection (Magnussen & Skivenes, in press; Skivenes 2011, Vis et al. 2012), responses from Norwegian staff stand out. In short, the Norwegian staff assigned high value to ascertaining the child's wishes, feelings, and needs, but did not ascribe high importance to information sharing, or to eliciting information from the child. Explanations for these results are not clear. Many responses were not consistent with the strong policy prescriptions that the Norwegian government has set out for children's participation. For example, the Child Welfare Act, article 6-3, explicitly indicates that children shall receive information. There are several recent studies of children's participation in child protection that show front line practice in Norway diverging from legislation and notably different from practice in England and in California (Vis, Holtan & Thomas, 2012; Skivenes, 2015; Kriz & Skivenes, 2015). One explanation may be related to the interpretation of participation for children, and that Norwegian workers have a narrow understanding of the meaning of this concept (Kriz & Skivenes, 2015). Another may be related to a protective attitude towards children (Kriz & Skivenes, 2015; Skivenes 2015), which sheds light on the reluctance to involve the 5-year-

old and the reluctance to inform the child, whether he were 5 or 11 years old. This, of course, illustrates how the “street-level policy goals” (Kriz & Skivenes, 2015) are dominating: the government may provide general instructions regarding children’s participation, but workers ultimately determine the meaning and form these instructions take (Lipsky, 1980).

The Finnish child protection workers are also notable for their interest in providing information to the child. The Finns’ differential responses related to the child’s age are somewhat surprising in the cross-country context. Of the four countries under study, Finland has a formal child welfare policy which strongly emphasizes children’s rights to participate, regardless of age. The findings may be explained by several factors. First, these results echo the conclusions of a recent policy review on the state of child protection by the Ministry of Social Welfare and Health: children are not involved in child protection as much as they should be (Toimiva lastensuojelu, 2013). Authentic engagement requires skill, willingness, and time – considerations that may be especially scarce when working with younger children. Second, the Finnish legislation sets the age of 12 as a standard for involving children as legal stakeholders. Although younger children should be involved in the decision-making process as well, there is some evidence suggesting that the age limit of 12 is followed in care order proceedings so that the involvement of young children may be given less weight (de Godzinsky, 2014). Relatedly, some child protection workers may not know or understand the law. Given that one-third of Finnish respondents in this study did not indicate an educational standard that would certify them as qualified, these findings may not be surprising. The lack of qualified staff is a widely recognised problem in the Finnish child protection system (Toimiva lastensuojelu, 2013). The finding may suggest that there is not enough on-the-job training and supervision to compensate for weaknesses in professional knowledge. Since a child-centric approach, including established methods and tools, has been infused into Finnish child protection practice for some time (Pösö, 2011), results from this study may suggest that as aspirations for involving children are high, staff are self-critical about their ability to transform expectations into action, especially with younger children.

The Finnish child protection workers were more likely to indicate the high importance of giving children information. This is in line with Finnish legislation in general which, in addition to the Child Welfare Act (417/2007), states that the customer of social services – the child in this question – should be informed about the process. In

contrast, it is not especially relevant in Finnish child welfare practice to find out what really happened because that state's system does not hinge on ascribing blame for an event (e.g., maltreatment), and because these questions – if relevant – would be asked well before the beginning of a care order proceeding.

On the whole, the overall responses suggest that the involvement of children is seen as a part of practice in care order proceedings in Finland especially with older children. At the same time, the results indicate that there may still be a discrepancy between the Finnish legislation emphasizing a high degree of child involvement, and child protection practice in an agency setting.

Respondents to the survey in England largely stand out from their counterparts in other countries as being less inclined to ascribe high importance to eliciting the child's wishes and feelings, or to inquiring about the child's needs. They are also notably less likely to indicate the importance of speaking with the 11-year-old about "what really happened." However, they are much more likely than workers in the other countries to rate it "very important" to involve Alex as a participant, especially when he is 5 years old. In the cross-country results, England stands out as a country in which child protection workers consider age as a defining factor less strongly than in other countries. There are some explanations that might help explain why English workers may not assign high importance to ascertaining the child's wishes and feelings, or needs – notably, that the worker already knows them. It is likely that the child will have been known to the welfare agency for a considerable length of time before the case gets to the stage of going to court – and if not this child, the family or older siblings (Masson, Dickens, Bader & Young, 2013). The child is likely to have been on a "child protection plan" for some time, which involves clear requirements to the parents about the changes they are expected to make, and inter-agency arrangements for providing services and monitoring progress (the current guidance is HM Government, 2013).

There are less favourable interpretations too – that workers lack the skills and confidence to engage directly with children, feel they do not have the time, or do not have the organisational and supervisory structure to support them in doing so (e.g. Munro, 2011; 2012; and see Cossar, Brandon & Jordan, 2011).

The court process in Finland and Norway also usually occurs only after the family has been under child welfare supervision for a considerable period of time, but the term used in the vignette, "starting preparations for care order proceedings," has a rather specific meaning in the English system. There are a number of further steps set out in

government guidance that should happen as part of the preparation process (the latest version is Department of Education, 2014). These include sending the parents a “letter before proceedings,” outlining the authority’s concerns and urging them to get legal advice and attend a meeting with their lawyer. This often leads to a further period of assessment and monitoring. It may be that workers in England were thinking of this process, which would give further opportunities to engage with the child.

As regards finding out the child’s views about “what really happened,” workers in England are notably more cautious than workers in the other three countries to do this for the 11-year-old (although more likely than Finland or Norway to rate it “very important” for the 5-year-old). This may be explained by the fact that child protection proceedings in the English courts are still shaped by an adversarial framework, even though there is an expectation that parties will act sensitively to the needs of the families, and the best interests of the child (Family Justice Review, 2011). In court, the parents’ and child’s lawyers, quite properly, may wish to question the social work evidence, analysis and recommendations. The child’s account of what really happened may form part of the social work case, and the law requires the social worker to take account of the child’s wishes and feelings. However, if the case *relies* on what the child has said, it is likely to be vulnerable. It is not hard for a skilful legal advocate to cast doubt on what a child has said. Thus, in preparations for a care order, workers might be hesitant about assigning overly high value to the child’s account of the evidence: a more objective and legally robust account is necessary.

Turning to the question about making sure the child is a participant in decision making processes, the English workers stand out as being significantly more concerned with this issue compared to their peers in the other countries. It is intriguing to think why this may be, given the relatively lower scores on many of the other dimensions. What can it mean to value the child’s participation so highly, if finding out the child’s needs, wishes and feelings are rated so much lower? Timing is the most likely explanation, in that the workers here are looking ahead, to ensure the child is included as a participant in the relevant decision-making processes from now on. It may be that their answers reflect their aspirations rather than reality, but even so, in the English system, there will be further opportunities for Alex’s needs and views to be taken into consideration by a number of different professionals. This will not involve him attending the court hearings or giving evidence, but his views and needs will be represented by the local authority social worker, by his independent children’s guardian, and by his lawyer.

Findings from California suggest that child welfare workers assign high value to their interactions with children, particularly in terms of seeking out information *from* the child. Compared to staff in the other countries, California workers were especially likely to rate as “very important” the child’s voice in communicating facts and information regarding the case. These findings are expected and are in line with the legal framework of that state’s child welfare system. Due to the evidentiary requirements of court, child protection workers are required to speak with the identified “victim” of maltreatment to determine the facts of the case. Workers in California were also more likely to attach high importance to speaking with the child about his/her future placement preferences. The rapid expansion of Family Group Decision Making and the related Team Decision Making practices encourage all family members – including children – to participate in expressing placement preferences (Holland & O’Neill, 2006).

Although California staff were especially likely to collect information *from* the child, they were less likely than the Finns (and sometimes the Norwegians) to indicate the importance of providing information *to* the child about the case. It is possible that their responses reflect a protective function on behalf of the child, especially if time is short and the likelihood of child removal is high. The investigation process in California may occur within weeks, days, or hours, in contrast to the more lengthy processes in the other countries assessed here. As such, staff may not feel that they have adequate time to engage the child to the degree required in order to keep him/her fully informed.

The California staff were less likely than the English and as likely as staff in the Nordic countries to involve children as participants in decision making. In particular, staff did not assign high importance to engaging young children as decision makers. The role of children as active agents in child welfare processes is still evolving, albeit slowly, in California. Children are not necessarily seen as independent spokespersons, but as members of their wider family. In that regard, families are encouraged increasingly to participate in problem solving, safety planning, and case planning for, and on behalf of children (Hatton, Brooks, & Hafer, 2008). Significant efforts have been expended to broaden child welfare workers’ conceptualization of the “family” to include fathers and extended relatives (Coady, Hoy, & Cameron, 2013); less attention has been placed on the role of children as engaged participants in decision making processes.

## **7. Limitations**

This survey examined the views of child protection workers in four countries: England, Finland, Norway, and the US (California) regarding children's participation in preparations for a care order. Findings from the study highlight differences in practice that may be shaped, in part, by the unique welfare states in which each system is nested, by the policy frameworks guiding practice, and by other considerations as yet unexplored. The study is limited by several features. We do not claim that the sample is representative in any of the countries or jurisdictions studied. Only in Norway were we given access to a list of all appropriate child protection staff that we might use for study recruitment purposes; in Finland, England and California we were unable to control the solicitation for participation. The sample is relatively large, but it may only be valid for the sample of workers that answered the on-line survey.

The survey relied on vignettes to elicit worker responses. There are three typical objections to the use of the vignette method related to realism, complexity, and whether the respondents' answers reflect actual practice (cf. Skivenes & Tefre, 2012). The vignette of Alex was presented without any country specific references to legislation or child protection protocols and could thus be claimed to be unrealistic or simple from the point of view of street-level practice. The level of general description was, however, needed in order to use the same vignette in every country. We cannot determine whether responses reflect actual practice, but they do signal staff considerations about the weight placed on involving the child at this stage of the decision making process. Vignettes also have been used successfully in other cross-country studies of practice and may be considered an appropriate strategy for understanding underlying principles of practice across divergent systems (e.g. Soydan, 1996; Benbenishty, Osmo & Gold, 2003; Skivenes and Stenberg, 2013).

## **8. Conclusion**

This paper examines children's involvement in decision making in the context of care order proceedings from a cross-country perspective. We select this point of intervention because it represents significant state intrusion into the lives of children and their families, and we focus on children's involvement based on the fundamental principles laid out in the UN Convention on the Rights of the Child, that children should be engaged, that they should have an opportunity to share their perspectives and interests, and that they should be offered information relevant to their circumstances.

Results from the study indicate that child protection workers weigh children's involvement as an important element in care order proceedings but they do so differently based upon age. Staff in the four countries studied were more likely to talk with an older child, to provide information, to gather information, and to include them in relevant decision making if the child were aged 11 compared to 5 in our hypothetical vignette. We assume that the ages provided in the survey are indicative of children's overall maturity, and thus interpret workers' responses as suggesting that they try to interact with children using strategies that are developmentally sensitive.

Findings did not necessarily comport with all of our hypotheses. Although the Nordic countries and England provide policy guidance regarding children's role in child protection decision making, we did not see consistently higher indicators of children's involvement from the respondents in these countries. Using a welfare-state frame to analyse the findings also did not produce consistent differences between the *family service systems* and *child protection systems* included in this study. The recognition of the UNCRC in state legislation was also not reflected in the results in a straightforward manner.

The somewhat contradictory findings, making it difficult to find patterns within and between countries, may be explained by the evasive concept of participation for children. There is not only one dimension of involvement but rather, steps on a ladder, as Hart (1992) puts it, or bricks in the climbing wall (Thomas 2002). Our cross-country findings suggest that studies of children's involvement in decision-making must consider actions (e.g. conversations) and processes (e.g. legal and organizational frameworks for care order proceedings) in the context of the wider social, policy, cultural, and practice settings in which decisions are made. Similarly, findings from this study highlight the wide discretionary space within which many child protection staff work. Depending on how they see the purpose of participation, its different dimensions, and the balance between considerations of protection and maturity, local interpretations of policy prescriptions may result in widely divergent practices with children. It is through this dynamic interaction of context and individual action that national policies and legislation, and even international treaties such as the UNCRC, are put into effect and made real for children and families.

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