



Research article

Children's involvement in care order decision-making: A cross-country analysis[☆]



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ABSTRACT

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 analyze 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.

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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 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

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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 towards 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 analyzed 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.

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 recognizes 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, cf. Thomas & O'Kane, 1998).

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 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

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